

Mendoza Plaintiffs' Objections and Requests for Modifications for Clarification to the Special Master's Memorandum of September 29, 2017 Re: Four Objections to the Special Master's 2015-16 Annual Report

October 10, 2017

Recommendation – Priority for Admission to Oversubscribed Schools

Mendoza Plaintiffs raised a compliance issue with respect to the District's process for running its lottery for over-subscribed schools because the February 19, 2016 revision of Policy JFB-R4 attached to its 2015-16 Annual Report as Appendix II-18 (and attached here as Exhibit 1) stated that children of employees would be placed in available seats by grade and by program but did not explicitly state that this would occur IF such placement would increase the integration of the receiving school.

Thereafter, in February 2017, after the Mendoza Plaintiffs had raised the issue and after there had been significant exchange of correspondence between the parties on this point, the District amended Policy JFB-R4 to state that children of employees would be placed in available seats by grade and program and **by integration target**. (See February 10, 2017 revision attached as Exhibit 2.)

Because the Special Master's Recommendation refers only to the general statement of policy on open enrollment and school choice that is set forth in Policy JFB but not to the admissions process for over-subscribed schools that is set forth in Policy JFB-4 (and that gave rise to the Mendoza Plaintiffs' concern in the first place) and for clarity going forward, **Mendoza Plaintiffs request that you revise your recommendation to ask that the District commit to adhere to Policy JFB-R4 as amended on February 10, 2017.**

Recommendation – The Definition of Exclusionary Discipline and Its Implications for Disciplinary Actions and Due Process

The Definition of Exclusionary Discipline: Requests for Clarification

While the Special Master's September 29, 2017 memo correctly references the District's continuing assertion that ISI and DAEP are forms of non-exclusionary discipline, Mendoza Plaintiffs are constrained to address the District's newest assertion in its October 4, 2017 "Annex to the District's Annual Report for SY 16-17" (Doc. 2076-1) ("DAR Annex") that, with respect to how it has defined exclusionary discipline over the last year, it was making a proposal for the "future," given that it misrepresents to the Court what actually occurred over the past year on this issue. As explained below, **Mendoza Plaintiffs therefore request that the Special Master clarify in his recommendations to be filed with the Court, that the District's definition of "exclusionary discipline" was NOT a proposal the District made for use in the future in connection with the code of conduct it was developing last year but, rather, an approach it was already (and improperly) implementing.**

Notwithstanding that the parties have for nearly a year argued over what is “exclusionary discipline” for purposes relating to discipline data reporting, due process rights, and other USP limitations on such discipline, the District has now, in its October 4, 2017 DAR Annex, asserted that its definition of “exclusionary discipline” (which does not include referrals to in-school-intervention (“ISI”) or DAEP) was in actuality a proposal in “the District’s [December 23, 2016] memorandum [which was] prepared in response to the Special Master’s inquiry in the context of developing a new code *to be utilized in the future*.” (Doc. 2076-1 at 4.) That assertion is wrong.

As the Special Master will recall, the issue of the District’s new definition of “exclusionary” discipline arose well before the District’s December 23 memo. Indeed, after having reviewed the District’s Annual Report *for the 2015-16 School Year*, the Mendoza Plaintiffs informed the Special Master, the day before the parties’ and Special Master’s November 30, 2017 meeting in Tucson, that they had discovered that the District inappropriately recodes DAEP referrals in its data tracking system “from long-term to short-term” and as a “reassignment to another school” (*see* J. Rodriguez 11/29/16 email to Special Master¹; Appendix VI-36 to 2015-16 TUSD Annual Report attached as Exhibit 4). Further, Mendoza Plaintiffs also had discovered in the TUSD Annual Report *for the 2015-16 school year*, the fact that the District had revised language in its due process policies to define ISI and DAEP as not being “suspensions,” and then limiting appeals processes to “suspensions” only, in conflict with the USP requirement that appeals be provided for ALL “exclusionary discipline.” (*See* TUSD policies JK-R1 (short-term suspension) and JK-R2 (long-term suspension) attached as Exhibits 5 and 6, respectively; USP Section VI, B, 2, b.)

It was in response to these issues, as well as language in the District’s then-latest version of a proposed code of conduct that too reflected a revision of what is “exclusionary discipline,”² raised at the November 30, 2016 meeting among the parties and Special Master, that the District for the first time articulated its position that it believes ISI and DAEP are non-exclusionary

¹ Mendoza Plaintiffs had in fact raised objection to the District having altered its policies relating to long and short term suspension without having first sought USP mandated input and surfaced their concerns about the due process consequences of these changes although they did not then have the data that later emerged relating to the consequences of those changes in their October 28, 2016 request that the Special Master bring instances of non-compliance with the USP to the Court’s attention. (*See* Exhibit 3.) It was in fact that request that triggered all of the following activity between the parties in this area including the proposed recommendations that are the subject of this submission.

² As the Special Master will recall, the very last issue concerning the draft code of conduct with which the Mendoza Plaintiffs could not agree involved language suggesting that ISI and DAEP are non-exclusionary. Mendoza Plaintiffs expressly suggested that to avoid delay in development and adoption of the code of conduct, given the disagreement on exclusionary discipline, including as reflected in the District’s discipline coding and policy regulations, the District revise its code of conduct to no longer suggest that ISI and DAEP are non-exclusionary so that that issue may be resolved independently from the code of conduct development. (*See* January 30, 2017 Mendoza Plaintiffs’ Statement of their Position on the TUSD’s Draft Code of Conduct (“Mendoza Plaintiffs’ suggestion would allow the parties to resolve any continuing disagreement on what is “exclusionary” outside of the Code of Conduct development and approval process, [but] the District has declined to do so.”).) Such communications plainly are inconsistent with the District’s DAR Annex assertions that its definition of exclusionary discipline was simply a proposal made for the future in connection with the code of conduct.

because some instruction is provided as part of those disciplinary consequences.³ Plainly, the changes to the District's definition of "exclusionary discipline" as reflected in how it coded DAEP referrals (as well as ISI referrals) and due process policies beginning *in the 2015-16 school year* was NOT, as the District now asserts, a proposal "*to be utilized in the future.*"

Given the misrepresentations made to the Court in the DAR Annex, the Mendoza Plaintiffs respectfully **request that the Special Master revise the recommendations he will submit to the Court to clarify that the District's definition of "exclusionary discipline" was not a proposal "to be utilized in the future" but that it implicates District past and on-going action and for that reason must be addressed, and addressed now.**⁴

Given that the issues described have been ongoing and so that there will be no confusion in the future, **Mendoza Plaintiffs further request that the Special Master clarify that he recommends that the Court provide express clarification on whether ISI and DAEP are "exclusionary discipline" under the USP.** (Mendoza Plaintiffs believe the Special Master's Memo does not make this recommendation sufficiently clear.)

Recommendation Concerning Due Process Policies: Request for Clarification

The Special Master recommends "that the Court confirm that full due process rights – as specified on page 6 of Exhibit 1 [District's September 13, 2017 Response to the Special Master's August 25, 2017 Memo re Four Objections], Box 3—*be granted* to all students and parents when the student conduct at issue involves in-school suspension, out-of school suspension, an alternative setting or program, or expulsion." (September 29 Memo at 3; emphasis added.)

Mendoza Plaintiffs agree with the Special Master's recommendation but **request that the Special Master clarify that, as is implicit in his September 29 Memo, he intended his recommendation to include that the District's discipline policies/regulations be modified to expressly guarantee the right to appeal to students who are referred to DAEP or ISI, as is**

³ Indeed, it was in response to the issue of how referrals to DAEP were coded in the 2015-16 school year that reflected the District's new definition of "exclusionary discipline" that District counsel Bruce Converse asserted at the November 30, 2016 meeting that so long as data on those referrals was gathered and reported in the District's annual report, the District was free to report that data in whatever manner it interpreted (given the District's definition of "exclusionary discipline"). It is precisely for this reason that the Special Master, in his December 12, 2016 memo (nearly two weeks in advance of the District's December 23, 2016 memo) stated that "It seems critically important that the District report actions in particular categories—such as in-school, out-of-school, etc.) **rather than grouping such actions together as exclusionary or non-exclusionary.**"

⁴ Mendoza Plaintiffs add that resolution of the issue of what constitutes "exclusionary discipline" is needed as administration of such discipline is subject to the USP requirement that imposition of exclusionary discipline be limited to "ongoing" and "escalating" misbehavior, and administered only following District attempted and documented PBIS/restorative practices interventions. (USP Section VI, B, 2, a.)

expressly required by USP Section VI, B, 2, b (specifically referencing TUSD regulations JK-R1 and JK-R2 concerning due process for short- and long-term suspensions, respectively).⁵

In this regard, Mendoza Plaintiffs note that conflicting District statements make unclear whether, District written policies/regulations aside, students referred to ISI/DAEP are in fact provided due process rights. (*Compare* District's September 13, 2017 Response to the Special Master's August 25, 2017 Memo re Four Objections ("If [students/parents] feel they would like to appeal the underlying suspension, they are not compelled to accept DAEP placement – they can request a long-term hearing and appeal the suspension") *with* DAR Annex (Doc. 2076) (suggesting students can appeal an underlying suspension whether or not the student accepts placement in DAEP).) But, what is clear is that the revisions the District made to regulations JK-R1 and JK-R2 in 2015 fail to provide appeal rights for ISI/DAEP referrals by limiting appeals to only "suspensions," and defining referrals to ISI and DAEP as "alternatives to suspensions." (Exhibits 5 and 6.)

Thus, the District's operative JK-R1 and JK-R2 policies, on their face, do not comply with USP Section VI, B, 2, b. **Mendoza Plaintiff therefore request that the Special Master clarify that he recommends revisions to District regulations, as detailed above.**

Recommendation Concerning Data Reporting: Objection

The Special Master writes that to remedy data reporting issues related to the District's definition of "exclusionary discipline," a disagreement on due process rights related to such definition, and questions about when removal from a classroom turns a disciplinary consequence from "in-school discipline" to "in-school suspension," he recommends, that with respect to data reporting, "the District be required [to] specify categories of student misbehavior focusing on the behavior rather than the remedy or response." (September 29 Memo at 4.) While the Mendoza Plaintiffs understand the basis underlying the Special Master's recommendation given that the disagreement among the parties affects how data is reported, they object to the recommendation as it incompletely addresses the need to have discipline data that can be compared to data of past school years, including data substantially in the form of USP Appendix I (reporting data on "In school Discipline," "In-school Suspension," "Short-term (out of school) Suspension," and "Long-term (out of school) Suspension").

Mendoza Plaintiffs believe that what is needed, consistent with the Special Master's conclusion that there "is no question that the USP intended to define programs like DAEP and in-school suspension as exclusionary"⁶ and his observation that "it seems that [it] will be

⁵ Mendoza Plaintiffs understand that there may exist practical limitations in trying to provide formal hearings for referrals to ISI similar to those required for long-term suspensions, but believe that, if those limitations do exist, the District must provide an explanation of them and must, in any event, provide an adequate process for appealing the referrals.

⁶ Given conversations among the parties and Special Master over the past year, Mendoza Plaintiffs understand the Special Master's reference to "in-school suspension" to have been intended to be to "in-school intervention," the disciplinary response that the District has over the past year, together with DAEP, asserted is not "exclusionary" because some instruction is involved.

necessary for the Court to determine... how exclusionary discipline should be defined” is reporting that classifies “In-School Intervention” and the DAEP program in a logical manner consistent with the Special Master’s recommendation, as described below. (See September 29 Memo at 3.) **Thus, Mendoza Plaintiffs object to the Special Master’s recommendations insofar as they do not include a recommendation that the Court direct the District to code referrals to DAEP and ISI as detailed below.**

District Alternate Education Program (DAEP)

While the District’s assertion that referrals to DAEP are not “exclusionary discipline” has caused confusion on how data on such referrals is reported, the District recently confirmed that DAEP referrals are reported as “*short-term*,” “*out of school*” suspensions (10/6/17 Response to RFI #1558) consistent with annual report materials stating that DAEP referrals are coded as a “*short-term*” “*reassignment to another school*” (Appendix VI-36 to 2015-16 TUSD Annual Report (Exhibit 4); Appendix VI-33 to 2016-17 TUSD Annual Report (Doc. 2064-5) (demonstrating such coding continued into the 2016-17 school year)). Mendoza Plaintiffs presume that the result of coding a DAEP referral as a “reassignment to another school” is that a student’s DAEP referral will not be reported in data specific to the school the student had been attending prior to DAEP referral (as the student no longer would be “assigned” to it).

In light of how the District codes and reports data and the categories of discipline data required to make meaningful year-to-year comparisons (including, as used in USP Appendix I), what is needed with respect to the coding and reporting of DAEP referrals is as follows:

- **DAEP referrals should be coded as long term suspensions.** DAEP referrals are for between 20 and 45 days (*see id.* at 1). There is no logical reason for the District to edit the coding of a long-term suspension to make it a short-term suspension once the student opts to participate in DAEP. (*see id.*)
- **DAEP referrals should not be coded as “reassignment to another school”** IF doing so means that the referral would not show up in discipline data specific to the school the suspended student attended prior to the DAEP referral.

In-School Intervention

The District codes referrals to In-School Intervention as “ISI/Reassignment to another class.” (Appendix VI-33 to 2015-16 TUSD Annual Report.) Mendoza Plaintiffs are unclear whether the effect of the District coding is to cause that discipline to be reported within the broader category of “In-School Discipline” as distinct from “In-school suspension” (*see* USP Appendix I). However, to ensure accuracy, **the Mendoza Plaintiffs request that the Special Master recommend that ISI is to be coded as “short-term,” and as an “in-school suspension” BUT NOT as “in-school discipline.”**

Recommendation - Clarifying the Criteria for Determining Student Race and Ethnicity

Mendoza Plaintiffs now have had an opportunity to read the District's explanation in the DAR Annex of the changes it made to "ethnic coding". (Doc. 2076-1 at 6-12.)

They continue to object to the District's unilateral decision to change the questions concerning race and ethnicity on the District's enrollment form that had been extensively negotiated between the parties and that had led to express agreement by the parties (inclusive of the Special Master). And they disagree with the District's suggestion that the data set forth in the Appendices to the USP should not be used as comparative or baseline data but also understand that these disagreements are not presently before the Special Master or "ripe" for resolution.

However, they also have questions about the methodology the District says it used for purposes of creating the tables on pages 8 and 10-12 of the DAR Annex since the footnoted explanations (footnotes 4 on page 8 and footnote 5 on page 10) are very brief and appear to suggest that two different approaches were used yet the numbers in the first two columns of the tables are unchanged. They also have questions about how the District categorizes students who answer "yes" to the question "is the student Hispanic/Latino" but check a box other than "Black or African American" or "Hispanic/Latino" in response to the new question "C".

Mendoza Plaintiffs believe that it will be much more efficient and useful to discuss their questions with the District than engage in additional writings between the parties on the issue. **They therefore ask, in light of the filing of the DAR Annex, that the Special Master revise his recommendation to propose that a conference call be arranged between the parties (inclusive of the Special Master) to discuss questions that he or the Plaintiffs may have about the section on "ethnic coding" in the DAR Annex.**

EXHIBIT 1

<p style="text-align: center;">TUCSON UNIFIED SCHOOL DISTRICT</p> <p style="text-align: center;">Tucson, Arizona</p> <p style="text-align: center;">POLICY REGULATION</p>	REGULATION TITLE: School Choice: Admissions Process for Oversubscribed Schools
	CODE: JFB – R4

Per Policy JFB, each student shall be assigned to an attendance zone school based on the student's legal address. A student wishing to enroll at a school other than his or her attendance zone school may apply to another school through Open Enrollment or the Magnet Program or they may be placed as a Magnet Pipeline student per JFB-R3. This document describes the process and the rules for students who apply to attend a school outside their attendance boundary through Open Enrollment or through the Magnet Enrollment process.

This document complies with USP Sections II.G.2.a and II.G.2.b.

Definitions

Attendance Boundary is the geographic area surrounding a school from which students are guaranteed acceptance to the school.

Child of Employee is a child or ward of an employee, including employees who reside outside the District.

Designated Preference Area is a geographic area, which may be designated around a magnet school, to provide a higher admission priority for students residing in that area as compared to students residing outside that area. (No more than 50% of the seats available shall be provided on this basis.)

District Resident Student means a student who resides within the school district boundaries.

Enhances Integration means the student's enrollment moves the ethnic/racial percentage of the school toward the District average for that grade level. (e.g. if the average Anglo percentage at the High School level is 6%, and the Anglo percentage at Tucson High is 5%, an Anglo student applying to Tucson High would "enhance integration" in that the addition of that student would help move the ethnic/racial percentage of Tucson High (5%) toward the District average for the High School level (6%))

Grade is a single year of study (e.g. 9th Grade).

Grade Level is the range of grade configurations within the District (ES, K8, MS, or HS).

Integrated School, as currently defined by the USP, is any school in which no racial or ethnic group varies from the district average for that grade level by more than +/- 15 percentage points, and in which no single racial or ethnic group exceeds 70% of the school's enrollment.

Integration Target is the number of seats allocated for each racial/ethnic group to enhance integration at each individual school (i.e. to move it toward the District average for that grade level).

Magnet Schools and Programs are the programs within a school or the schools which: 1) focus on a theme or specific instructional approach, such as a specific academic area, a particular career or a specialized learning environment; 2) attract students of diverse racial and ethnic backgrounds; and, 3) encourage students to choose a school other than their attendance boundary school to participate in the magnet theme or instructional approach offered at that program or school.

Nonresident Student is a student who resides in this state and who is seeking enrollment in a school district other than the school district in which the student resides

Open Enrollment refers to the student assignment provision permitting any District student to apply to attend any school, pursuant to the process set forth herein.

Oversubscribed School is a school where more students are seeking to enroll than available seats in that grade and/or a school that has more students enrolled than the capacity of its facility.

Pipeline Students are students who are placed at the next level of schooling (elementary to middle, middle to high) based on the compatibility of the program, and based on the fact that they were enrolled/participating in the program at the previous school as defined by Policy JFB-R3.

Preference Area is a geographic tool used to give students who live in close proximity to a school without attendance boundaries priority status in the admission process to such schools.

Priority Window is the time period when applications are first accepted for the following school year. Applications received during this time period will be entered in the first lottery.

Racially Concentrated Boundaries are the attendance boundaries of Racially Concentrated schools.

Racially Concentrated School is any school in which any racial or ethnic group exceeds 70% of the school's total enrollment, and any other school specifically defined as such by the Special Master in consultation with the Parties. This will be determined each year based on fortieth-day data.

Resident Transfer Student is a resident student who is enrolled in or seeking enrollment in a school that is within the school district but outside the attendance area of the student's residence.

Sibling is a designation given to students who are applying to a school and who already have a sibling attending that school or placed to attend that school.

School Choice is the election by a parent/student, through Open Enrollment or Magnet Enrollment, to attend a school other than the school that services the area in which they reside.

Basic Assignment Rules

1. Students, including Nonresident Students, who are currently enrolled and remain enrolled to the end of the school year, even if they move out of a school's attendance boundary or out of District, may continue, without application, at that school until graduation from that school or until they elect to attend another school..
2. Pipeline students (see JFB R-3) are placed before the lottery.
3. The School Choice application allows the parent to choose whether or not the student should be considered as a Sibling (see the definition above) or if the student has a parent/guardian employed by TUSD. If seats are available in the appropriate grade-school, sibling students are placed after neighborhood and pipeline students. Children of employees are placed after siblings.
4. The School Choice application will indicate whether the student is applying to a magnet program or open enrollment. For example, a parent may choose Tucson High Fine Arts Magnet as their first choice, and Tucson High School Open Enrollment as their second choice.
5. The School Choice application allows parents to choose three schools/programs.
6. Available seats are provided for each school-grade-program based on the projected neighborhood enrollment plus pipeline students, siblings and children of employees as compared to the capacity of the school.
7. The lottery will only apply if the number of applications exceeds the number of available seats (by grade, by school); otherwise, all applicants are placed.
8. Within the lottery, for entry grades, available seats are allocated by race/ethnicity to improve integration at each school (the Integration Target defined above).
9. The lottery will only make one assignment per student.
10. Magnet students are never placed into open enrollment slots, and open enrollment students are never placed into magnet slots.
11. All District Resident Students are placed before any Nonresident Student.
12. Nonresident Students, who are already enrolled in a TUSD school or program or who have a sibling so enrolled, are considered, for the purposes of School Choice placement, as District Resident Students.
13. All other Nonresident Students (i.e. those who are not already enrolled in a TUSD school or program and who do not have a sibling so enrolled) are not considered in the first lottery; they are placed in the second and subsequent lotteries, after District Resident Students.
14. Students who are not placed, due to a shortage of available seats, and students who receive their second or third choice will remain in the applicant pool to be placed in subsequent lotteries in order to try to place them in their first choice. Once a student is placed in their first choice, they are removed from the pool.

Lottery Process

The schedule below shows the process for accepting School Choice Applications.

Early November	Priority Window opens and applications are accepted
Mid-December	Principals provide the seats available for Open Enrollment and Magnet Enrollment by grade and program
	Priority Window closes
	Applications entered into the student information system
	1st Lottery run
Early January	Letters are sent to parents via U.S. mail offering placements; the offer is entered into Mojave and is visible to the schools
	Offer letters are returned, with the parent signature indicating acceptance; parents have two weeks to return the letter to School Community Services

Two additional lotteries are run at approximately two-month intervals. The application window closes approximately 10 days before each lottery run and the process for parent notification is the same as in the first lottery. After the three lotteries are run, placements are made where there are applications for that school and grade and seats available, with random selection as needed, until each school-grade is filled to the extent possible.

Lottery Program

The lottery is a program in the student information system. It uses the steps shown below to place all applicants that meet each criterion before going to the next step. (See the flow chart below).

The lottery assigns a random number to each applicant. If in any step, the number of applicants exceeds the number of available seats (by grade, by program, or by integration target), applicants will be selected based on the random numbers generated during the lottery (lower numbers receiving priority).

District Resident Students – The following steps apply to place District resident students, children of employees and nonresident students, who are already enrolled in a TUSD school or program or who have a sibling so enrolled. Nonresident students, who are not already enrolled in a TUSD school or program and who do not have a sibling so enrolled, are placed in the second and subsequent lotteries after all District resident students are placed (see below).

1. Choice # – All first choices are run first. If a student cannot be placed in their first choice they are run, after all first choices are placed, in a lottery for their second choice. Then if still not placed they are run following the same process for their third choice. Students who are placed in their second or third choice are kept in the lottery pool and run in subsequent lotteries to place them in their first choice if that becomes available.
2. Sibling – If a student has a sibling attending their school of choice, or placed in that school in an earlier lottery, they are placed in this step if seats are available (by grade and by program).
3. Children of Employees – Children of employees are placed if seats are available (by grade and by program). This includes nonresident students (i.e. from outside the District).
4. Residents of Racially Concentrated Boundaries – Students within the Racially Concentrated Boundaries are placed in this step if seats are available (by grade, by program, and by integration target).
5. Any Not Placed – All remaining students are placed in this step if seats are available (by grade, by program, and by integration target).

Nonresident Students – The following steps apply to the second and subsequent lotteries to place nonresident students after all District resident students are placed; nonresident students are not placed in the first lottery.

1. Choice # – All first choices are run first. If a student cannot be placed in their first choice they are run, after all first choices are placed, in a lottery for their second choice. Then, if still not placed, they are run following the same process for their third choice. Students that are placed in their second or third choice are kept in the lottery pool and run in subsequent lotteries to place them in their first choice if that becomes available.
2. Any Not Placed – All nonresident students, not already placed, are placed in this step if seats are available (by grade, by program, and by integration target).

Adopted: February 19, 2016 (Friday Report)
Revision:

Legal Ref: A.R.S.15-816 *et seq.*

Cross Ref: Policy JE - Student Attendance; Policy IKE - Promotion, Retention, and Acceleration; Policy JB – Equal Educational Opportunities; ; Policy JC – Student Attendance Boundaries; Policy EEA – Student Transportation; Policy AC - Discrimination

LOTTERY FLOW DIAGRAM

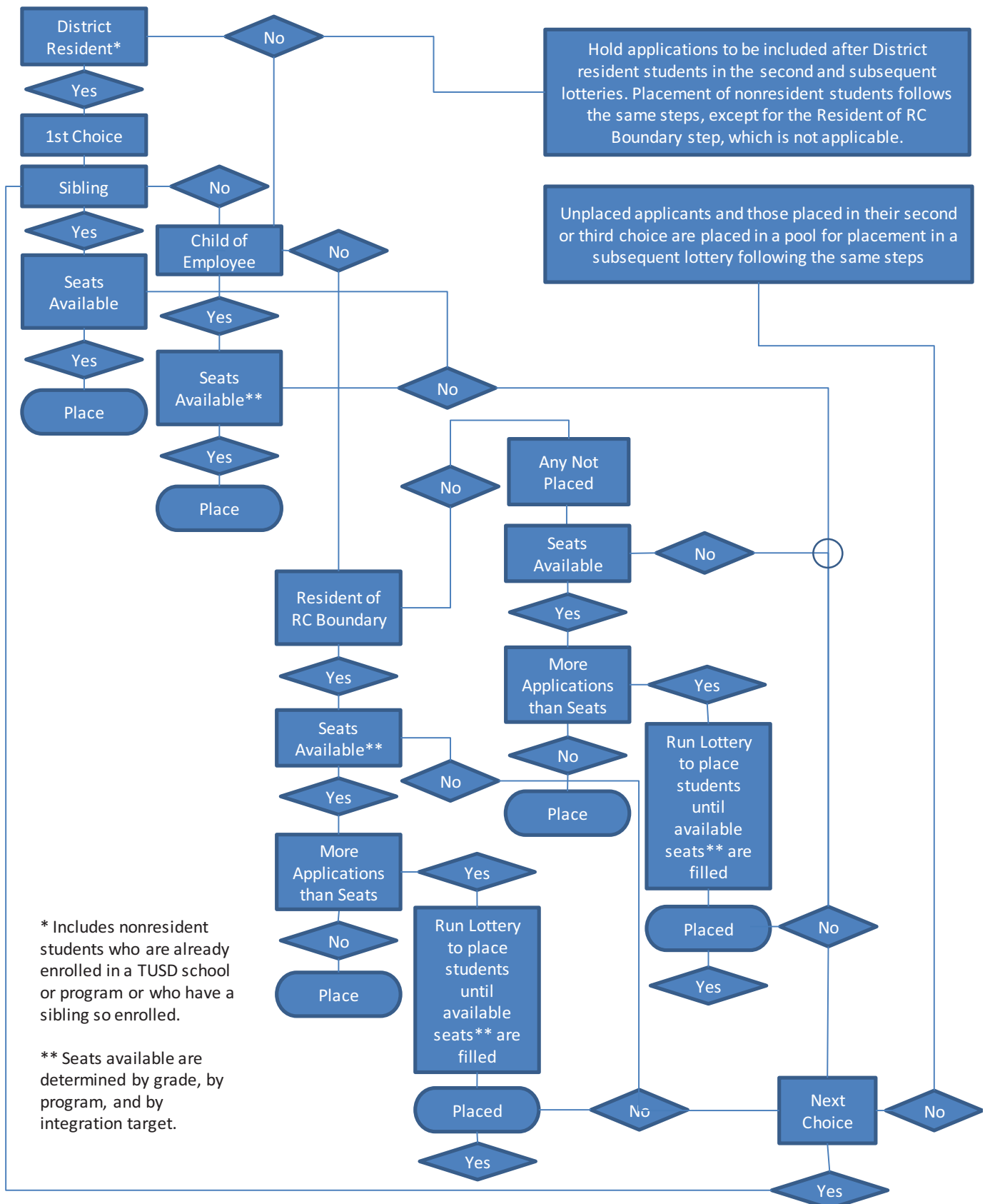


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2. Pipeline students (see JFB R-3) are placed before the lottery.
3. The School Choice application allows the parent to choose whether or not the student should be considered as a Sibling (see the definition above) or if the student has a parent/guardian employed by TUSD. If seats are available in the appropriate grade-school, sibling students are placed after neighborhood and pipeline students. Children of employees are placed after siblings.
4. The School Choice application will indicate whether the student is applying to a magnet program or open enrollment. For example, a parent may choose Tucson High Fine Arts Magnet as their first choice, and Tucson High School Open Enrollment as their second choice.
5. The School Choice application allows parents to choose three schools/programs.
6. Available seats are provided for each school-grade-program based on the projected neighborhood enrollment plus pipeline students, siblings and children of employees as compared to the capacity of the school.
7. The lottery will only apply if the number of applications exceeds the number of available seats (by grade, by school); otherwise, all applicants are placed.
8. Within the lottery, for entry grades, available seats are allocated by race/ethnicity to improve integration at each school (the Integration Target defined above).
9. The lottery will only make one assignment per student.
10. Magnet students are never placed into open enrollment slots, and open enrollment students are never placed into magnet slots.
11. All District Resident Students are placed before any Nonresident Student.
12. Nonresident Students, who are already enrolled in a TUSD school or program or who have a sibling so enrolled, are considered, for the purposes of School Choice placement, as District Resident Students.
13. All other Nonresident Students (i.e. those who are not already enrolled in a TUSD school or program and who do not have a sibling so enrolled) are not considered in the first lottery; they are placed in the second and subsequent lotteries, after District Resident Students.
14. Students who are not placed, due to a shortage of available seats, and students who receive their second or third choice will remain in the applicant pool to be placed in subsequent lotteries in order to try to place them in their first choice. Once a student is placed in their first choice, they are removed from the pool.

Lottery Process

The schedule below shows the process for accepting School Choice Applications.

November	Priority Window opens and applications are accepted
December	Principals provide the seats available for Open Enrollment and Magnet Enrollment by grade and program
	Priority Window closes
	Applications entered into the student information system
	1st Lottery run
January	Letters are sent to parents via U.S. mail offering placements; the offer is entered into the lottery software and is visible to schools
	Offer letters are returned, with the parent signature indicating acceptance; parents have two weeks to return the letter to School Community Services

Two additional lotteries are run at approximately two-month intervals. The application window closes approximately 10 days before each lottery run and the process for parent notification is the same as in the first lottery. After the three lotteries are run, placements are made where there are applications for that school and grade and seats available, with random selection as needed, until each school-grade is filled to the extent possible.

Lottery Program

The lottery is a program in the student information system. It uses the steps shown below to place all applicants that meet each criterion before going to the next step. (See the flow chart below).

The lottery assigns a random number to each applicant. If in any step, the number of applicants exceeds the number of available seats (by grade, by program, or by integration target), applicants will be selected based on the random numbers generated during the lottery (lower numbers receiving priority).

District Resident Students – The following steps apply to place District resident students, children of employees and nonresident students, who are already enrolled in a TUSD school or program or who have a sibling so enrolled. Nonresident students, who are not already enrolled in a TUSD school or program and who do not have a sibling so enrolled, are placed in the second and subsequent lotteries after all District resident students are placed (see below).

1. Choice # – All first choices are run first. If a student cannot be placed in their first choice they are run, after all first choices are placed, in a lottery for their second

choice. Then if still not placed they are run following the same process for their third choice. Students who are placed in their second or third choice are kept in the lottery pool and run in subsequent lotteries to place them in their first choice if that becomes available.

2. Sibling – If a student has a sibling attending their school of choice, or placed in that school in an earlier lottery, they are placed in this step if seats are available (by grade and by program).
3. Children of Employees – Children of employees are placed if seats are available (by grade, by program, and by integration target). This includes nonresident students (i.e. from outside the District).
4. Residents of Racially Concentrated Boundaries – Students within the Racially Concentrated Boundaries are placed in this step if seats are available (by grade, by program, and by integration target).
5. Any Not Placed – All remaining District resident students are placed in this step if seats are available (by grade, by program, and by integration target). After all students are placed to meet integration targets, the remaining students are placed in any available seats (by grade, by program) with preference given to children of employees.

Nonresident Students – The following steps apply to the second and subsequent lotteries to place nonresident students after all District resident students are placed; nonresident students are not placed in the first lottery.

1. Choice # – All first choices are run first. If a student cannot be placed in their first choice they are run, after all first choices are placed, in a lottery for their second choice. Then, if still not placed, they are run following the same process for their third choice. Students that are placed in their second or third choice are kept in the lottery pool and run in subsequent lotteries to place them in their first choice if that becomes available.
2. Any Not Placed – All nonresident students, not already placed, are placed in this step if seats are available (by grade, by program, and by integration target).

Adopted: February 19, 2016
Revision: February 10, 2017 [Friday Report]

Legal Ref: A.R.S.15-816 *et seq.*

Cross Ref: Policy JE - Student Attendance; Policy IKE - Promotion, Retention, and Acceleration; Policy JB – Equal Educational Opportunities; ; Policy JC – Student Attendance Boundaries; Policy EEA – Student Transportation; Policy AC - Discrimination

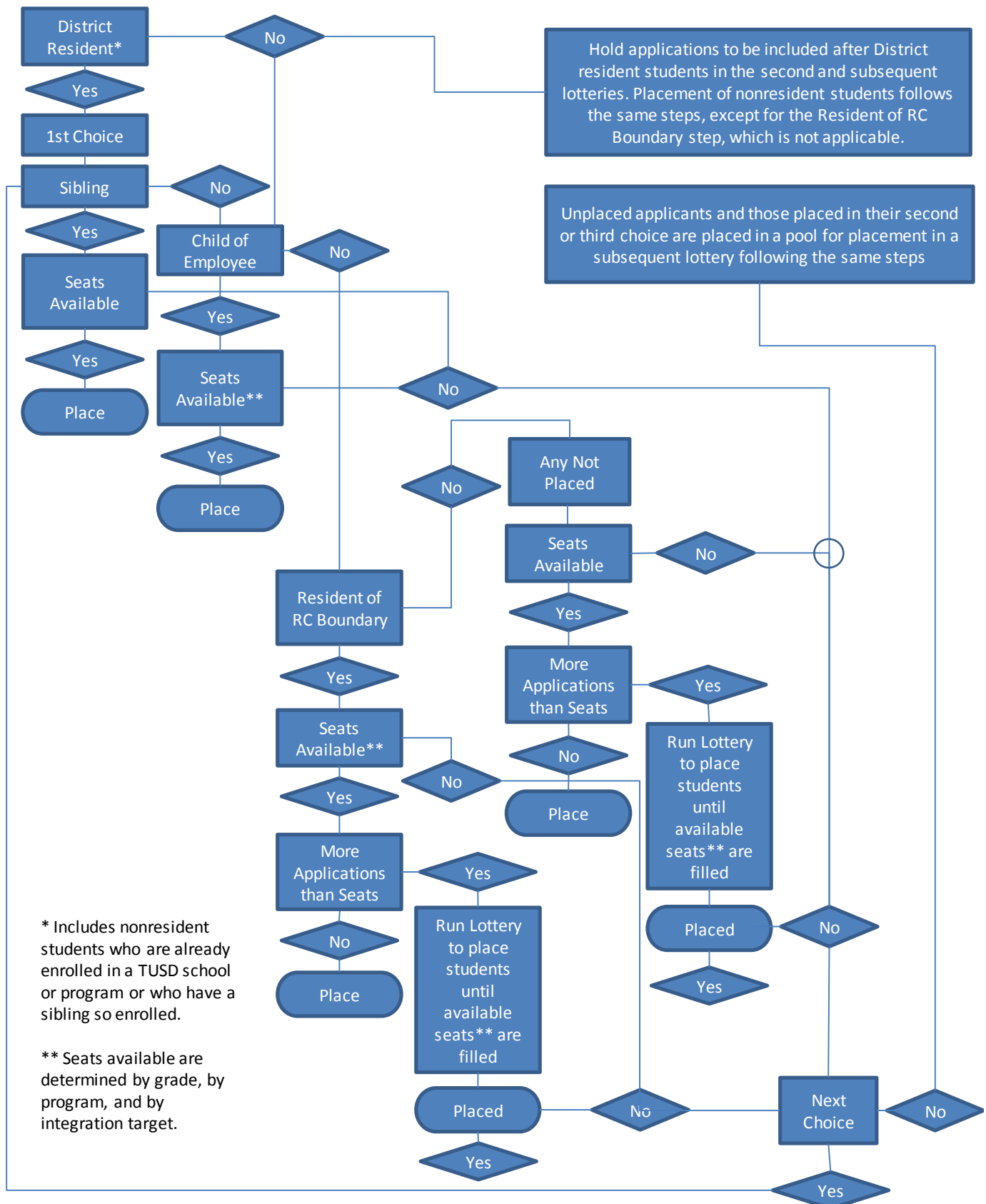
LOTTERY FLOW DIAGRAM

EXHIBIT 3

MENDOZA PLAINTIFFS' REQUEST THAT THE SPECIAL MASTER BRING MULTIPLE INSTANCES OF
THE DISTRICT'S NONCOMPLIANCE WITH THE USP AND WITH ITS UNDERTAKINGS RELATED
THERE TO THE COURT'S ATTENTION

October 28, 2016

During the course of their review of TUSD's 2015-16 Annual Report, the Mendoza Plaintiffs have encountered numerous instances in which TUSD has failed to comply with the USP and with its undertakings related to the implementation of the USP. We write now to request that, pursuant to USP Section X, E, 6, you bring the instances discussed below to the Court's attention.

Failures to Comply with USP Section I,D,1 and with the District's Express Agreements Concerning Its USP Mandated Policies and Procedures

It appears that in the last year, on at least four occasions, the District has unilaterally revised/amended/changed plans and/or policies subject to the review and comment (and ultimate court review if warranted) process mandated by Section I,D,1 of the USP.

Changes to the application and selection process for oversubscribed schools

TUSD states at page II-41 of the Annual Report that it made "revisions" to the application and selection process for oversubscribed schools "giving children of District employees **special consideration** in the lottery process and ... giving current students and their siblings consideration as continuing resident students." (Emphasis added.)

Apart from the fact that these changes were made unilaterally and without TUSD having followed the Section I,D,1 process, they violate TUSD's express agreement with the parties and the Special Master.

As the Special Master will no doubt recall, the priorities to be assigned in the lottery process were the subject of extensive discussion among the parties because they are so important to the creation of a process that has the greatest likelihood of enhancing the integration of the District's schools.

Attached is a copy of the Governing Board Policy relating to oversubscribed schools in the form that was agreed to by the parties in 2015. Also attached is a copy of what the District asserts is its current policy which was attached to the Annual Report as Appendix II-18. The document that appears as Appendix II-18 is substantially different from that agreed to by the parties.

Failure to consult with respect to changes to a policy governed by the USP is itself a serious instance of noncompliance. But what makes this particular instance of noncompliance so serious is that the District knowingly abandoned the extensively negotiated condition that must be applied when the child of a District employee participates in the lottery process: priority is to be accorded **ONLY** if the District employee's child enrollment at the requested school "will help that school meet integration targets."

This provision and the negotiated provision that gave other children of District employees priority before the remainder of District children in the lottery process but AFTER children living in the attendance zone of a racially concentrated school whose enrollment at the requested school would enhance integration and children, more generally, whose attendance at the requested school would help the receiving school meet integration targets was of great concern to the Plaintiffs because it potentially would weaken the lottery process's goal of enhancing integration. As part of the agreement permitting the District to revise the lottery process to give some precedence to the children of District employees, the District agreed to study the effects of the provisions after two years and sunset them if they were found to hinder integration. Instead, as admitted by the District in its Annual Report, it simply ignored that agreement and made a revision that is even more likely to hinder integration than what the Plaintiffs ultimately agreed to accept.

This act of noncompliance not only violates the USP. It also manifests lack of good faith in the District's implementation of its desegregation obligations.

Changes to the Marketing, Outreach, and Recruitment Plan

TUSD states at page II-35 of the Annual Report that in 2015, it "updated" the Marketing, Outreach, and Recruitment Plan. However, it never presented the revised "updated" Plan to the Plaintiffs and the Special Master for review and comment as required by USP Section I,D,1. Nor has it provided it as an Appendix to its Annual Report. Therefore, we remain unable to determine if the "updated" Plan does indeed provide increased strategies to recruit African American and Latino students as the Annual Report asserts.

We also note that the version of the Marketing, Outreach, and Recruitment Plan on the TUSD website is the November 3, 2014 plan, revised for school year 2014-15. That posted plan therefore provides limited guidance to the public and the parties concerning the marketing, outreach, and recruitment efforts the District currently is pursuing. Yet, USP Section X,D requires the posting "of current information related to the various elements of [the USP]."¹

¹ In noting this failure to follow the requirements of the USP, Mendoza Plaintiffs do not mean to suggest that the District should rush to post a revised policy that was not taken through the USP

Changes to the Dropout Prevention and Graduation Plan

TUSD states at page V-195 of the Annual Report that it has modified the Dropout Prevention and Graduation Plan to “revise its strategies for the 2016-17 year.” Not only did the District fail to solicit comment from the Plaintiffs and the Special Master concerning any proposed “revised strategies” and changes to the plan as required by USP Section I,D,1 ; the District states (also on page V-195) that it will not even provide a copy of the revised plan to the Plaintiffs and the Special Master **until it files its 2016-17 Annual Report** – that is, after that revised plan will have been in place for the entire school year.

We also note that this means that the version of the plan available to the public on the TUSD website (stated to be the version “re-revised March 13, 2015”) is not the current version of the plan that the District has represented it is following. Once again, the plan on the website therefore provides limited guidance to the public and the parties. Yet, USP Section X,D requires the posting of “current information related to the various elements of [the USP].”²

Changes to Policy Regulations JI-R, JK-R1, JK-R2, and JK-R2-E3

On page VI-317 of the Annual Report, the District describes and attaches (as Appendices VI-64 through VI-69) the above-cited TUSD Policy Regulations that it says reflect “Governing Board policy changes for the 2015-16 school year.” While Mendoza Plaintiffs were given an opportunity to review and comment on changes to the 2015-16 GSRR, they have no record of ever having received the above-cited revised policies for review and comment under USP Section I, D, 1. Significantly, the revised policy regulations include those governing short-term suspensions (JK-R1) and long-term suspensions (JK-R2), topics also covered in the GSRR that the District knows have been of concern to all Plaintiffs and the Special Master and that have led to extensive discussion among the parties as they have reviewed District changes to the GSRR and the new proposed Code of Conduct.

Changes in the referenced Governing Board policies implicate the GSRR and USP Sections VI, B, 2, a and c. Further, other of the revised Governing Board policies are covered by USP Section VI, B, 2, b which addresses “due process protections for student discipline” and expressly states as included in such policies Governing Board policy JK-R1 among others, which the District acknowledges it changed in 2015-16. Mendoza Plaintiffs are unable to tell what changes are reflected in the discipline-related policy changes as the appendices comprising them do not contain redlined edits, and Mendoza Plaintiffs were unable to locate copies of the governing policy regulations that existed before the changes made in 2015-16 either in earlier

Section I,D,1 process. Rather, they cite this violation as an added instance both of noncompliance by the District and a failure to provide the transparency mandated by the USP.

² See footnote 1, above.

Annual Reports or on the District website. In their Requests for Information, they have asked the District to identify the specific changes. However, regardless of the nature and extent of the changes, it is apparent that they were made without the District having first followed the USP Section I,D,1 process.

Changes to Facilities Condition Index Component Weights

The District states on page IX-350 of the Annual Report that in order to account for the existence of the Technology Condition Index (“TCI”), it “reduced the weight given to the communication category [in the Facilities Condition Index (“FCI”)] from 15 to 5 percent, with the 5 percent reflecting the facility-related responsibilities rather than the technology infrastructure. The team then increased the Grounds category, which includes playgrounds and athletic fields, from 5 percent to 10 percent.”

Mendoza Plaintiffs, and as far as they know, no other Plaintiff nor the Special Master, were consulted or provided an opportunity to comment on the decision to revise the FCI because of the existence of the TCI or the revised weights accorded to the components of the FCI as is required under USP Section I, D, 1.

Misleading Failure to Provide Information Consistent with the Categories and Definitions Set Forth in the USP

“Certificated Staff”

TUSD purports to present information concerning the race and ethnicity of its “certificated staff”; however it has improperly employed its own self-serving definition of “certificated staff” and failed to use the definition expressly set forth in the USP.

The USP states in Appendix A, Definition 5 that “Certificated Staff” “refers to all personnel employed by the Tucson Unified School District who, at a minimum, hold a professional certificate issued by a state licensing entity and are employed in a position for which such certificate is required by statute, rule of the professional educator standards board, or written policy or practice of the District.” By contrast, the District states that for purposes of reporting its statistics on the racial and ethnic composition of its “certificated staff” it is defining that term to include “not only classroom teachers but site administrators and other positions such as counselors, learning support coordinators, library media staff, **etc.** who support student learning at the school sites.” (Annual Report at IV-76, footnote 41; emphasis added.) Apart from the fact that who is included in the District’s new unilateral and vague definition of “certificated staff” is unclear, the District’s newly created category likely includes a larger proportion of African American and Latino personnel than would be included in the USP definition of that category --- and therefore distorts the results being reported by the District --

given that it is more likely, given the demographics of the District, that relatively more African American and Latino personnel will be found among the ranks of learning support coordinators, library media staff, teaching assistants, and student success specialists than among those personnel who fall within the USP definition of “certificated staff.”

Mendoza Plaintiffs not only believe that the District must be required to revise the portions of the Annual Report relating to “certificated staff.” They also believe that the District’s noncompliance in failing to employ the definition of “certificated staff” expressly set forth in the USP should be reported to the Court.

“USP Ethnicity Coding”

With respect to the reporting of disciplinary outcomes, the USP very expressly states that data is to be presented “substantially in the form of Appendix I for the school year of the Annual Report together with comparable data for every year after the 2011-2012 school year. (USP, Section VI, G, 1, b.)

However, Appendix VI-54 to the 2015-16 Annual Report which the District states is intended to address this requirement (Annual Report at VI-316) fails to do so. To the contrary, the appendix states: “This discipline **data differs from prior USP reporting** because this report uses updated USP ethnicity coding. Prior USP reports used federal ethnicity coding. The total N sizes remain the same. Only distribution across ethnicities has changed.” (Emphasis added.) The data reported in Appendix VI-54 for the years 2012-13 to 2014-15 now significantly conflicts with data previously provided for the same years (with slight changes in total N size) and makes meaningful comparison to the USP baseline year of 2011-12 impossible. (*Compare* Appendix VI-54 *with* the Annual Report for 2014-15, Appendix VI-1.) The change in ethnicity coding has created data that is not “substantially in the form of Appendix I” to the USP and data that is not useful in meaningfully assessing District success in implementing the USP.

Further, there has been no agreement by the Plaintiffs to substitute something the District now calls “updated USP ethnicity coding” for the “federal ethnicity coding” previously used in USP reporting. Not only should this instance of noncompliance with the USP be brought to the Court’s attention. The District also should be directed to revise Appendix VI-54 and all other USP related reports and appendices that use “updated USP ethnicity coding” to substitute “federal ethnicity coding”, and the District should be directed to use “federal ethnicity coding” for all future USP reporting.

Failure to Comply with USP Section IV,E,5 Requiring the District to Reduce the Number of New Teachers and New Principals Assigned to Racially Concentrated Schools And/Or Schools Performing Below the District Average

As detailed in Mendoza Plaintiff's RFIs concerning Section IV of the USP, notwithstanding the provisions of the USP, 50% of first year principals (three of six) and 80% of first year teachers (102 of 127) were assigned to racially concentrated schools and/or schools performing below the District average in the 2015-16 school year.

The Plaintiffs and the Special Master have repeatedly flagged this issue but the problem persists. Therefore, Mendoza Plaintiffs request that this instance of noncompliance with the USP be brought to the Court's attention.

In addition, given that the District has, for another year, treated the placement of first year teachers and first year principals at racially concentrated schools and/or at schools at which students are performing below the District average as the rule (and not as an exception), Mendoza Plaintiffs request that the Implementation Committee monitor the District's assignment of first-year teachers and principals for the balance of this school year and through the hiring process for next year in an effort to actively manage the District into compliance with USP Section IV, E, 5.

EXHIBIT 4

An Evaluation of the Disciplinary Alternative Education Program or DAEP, 2015-16

Overview

In 2013, as part of the Unitary Status Plan (USP), Tucson Unified School District agreed to monitor disciplinary data to ensure that school sites were not imposing discipline in a racially or ethnically disproportionate manner or otherwise contrary to District policy. The District also agreed to revise its Guidelines for Student Rights and Responsibilities handbook and to strengthen its implementation of Restorative Practices and the Positive Behavior Interventions and Supports (PBIS) system. Restorative Practices and PBIS are strategies designed to reduce conflict and create supportive school environments. Along with these initiatives, two new programs were introduced in 2015-16, the Disciplinary Alternative Education Program or DAEP and the In School Intervention Program or ISI program.

As evidenced by these initiatives, the District is committed to reduce disparities wherever they exist in our schools. Achieving equity in student discipline is a cornerstone of the USP and a top TUSD priority. Students cannot learn if they do not feel safe, if they do not feel as if they belong, and if they do not attend school. TUSD's goal is to provide to all students fair, equitable, and successful educational experiences.

This evaluation will review the impact of DAEP during its first year of implementation by examining the following variables of the TUSD students who attended the program:

- A. Student groups served, including overrepresentation of students from economically disadvantaged families, with ethnic and racial representations, and with a disability who receive special education and limited English proficiency services, grade level
- B. Number of DAEP assignments
- C. Recidivism rates in discipline
- D. Reasons for DAEP assignments
- E. Attendance rates
- F. Pre- and Post-Tests in ELA and Math
- G. Social and Emotional Learning (SEL) Survey
- H. DAEP Exit Student Survey

Program Design

DAEP provides students in grades 6-12 who have committed a level 4 or level 5 violation with an alternative to suspension so that they can continue their education. A level 4 or 5 violation occurs when a student commits an action that puts other students or staff in potential harm or worse. Some examples of a level 4 violation are:

- Assault: causing any physical injury to another person or the apprehension of imminent physical injury
- Alcohol, tobacco, and other drug violations – possession or use
- Arson of a structure or property
- Fire alarm misuse
- Sexual offenses including harassment with contact, indecency
- Theft such as burglary, robbery, or extortion
- Weapons possession such as billy club, brass knuckles, knives, etc.

Some examples of a level 5 violation are:

- Aggravated assault to cause serious physical injury to another
- Alcohol, tobacco, and other drug violations – sale or share
- Arson of an occupied structure
- School threat (bomb, chemical, etc.)
- Theft such as armed robbery, burglary with weapon
- Firearms such as handgun, pistol, revolver, rifle, etc.

With the introduction of DAEP, a student who commits a level 4 or 5 violation will be given the conventional consequence of long term suspension at home or be given a new option. Once the student is suspended and subsequently goes through the long term hearing process, s/he will be provided with the choice of being long-term suspended or attending DAEP. To be eligible for DAEP, the long term suspensions must be 20 days or longer but no more than 45 days. If a student enrolls in DAEP and successfully completes the program, the suspension status will be reassigned from long-term to short-term and the student's time in DAEP will be recoded as a "reassignment to another school" in TUSD's student information system. If a student refuses to enroll in DAEP, s/he is coded as a long term suspension. The student may re-enroll in their school after the allotted suspension period.

If a student chooses to attend DAEP, s/he will continue core courses in small structured environments with certified teachers to stay on track academically and to stay current with assignments, etc. when s/he returns to his/her home school. Please see Appendix 1 for the program criteria and Appendix 2 for the program mission and vision. A primary function of DAEP teachers is the academic articulation with the home school teachers to facilitate a smooth transition from the suspending school, to DAEP, and back to the home school after the suspension period. Additionally, a support team is provided to ensure that each student feels valued, that their success matters, and that the constraints to their school success are addressed.

Students who enrolled in DAEP receive additional benefits that are denied to students who declined enrollment such as:

- Continuation of services: Students with an IEP, 504 plan, or English Language Learner (ELL) status will continue to receive services during DAEP.
- No need to serve time in a detention center: About half of the enrolled students (N=77) were arrested because they committed Level 4 and 5 offenses and were placed on probation. Without DAEP, these students would be considered in violation of their probation and would need to serve time in a detention facility.
- AzMERIT: DAEP follows the State Assessment calendar and ensures that students complete the State Standardized AzMERIT while enrolled in DAEP.

Staffing and Location of the Programs

Arizona has been struggling with a significant teacher shortage over the last couple of years and TUSD is no exception. Teacher vacancies have remained unfilled across the District, especially in core subjects such as science and math. This lack of certified teachers also affected DAEP. During the 2015-2016 school year, DAEP had several teacher vacancies that went unfilled for the entire year including three high school positions. Additionally, one middle school position was vacant for the second semester of the school year. To compensate for the lack of certified teachers, support staff, who normally offered wrap-around services, served as substitute teachers in these positions. The lack of certified teachers not only affected the ability to provide academically rigorous and aligned material to students, but may have also had the unintended effect of consigning the wrap-around support services to a lesser function.

Another staffing challenge in 2015-16 was to the ability to retain the Behavior Intervention Monitors (BIM) once they became trained through DAEP. For several BIMs, other opportunities in the District attracted them away from DAEP because of a higher salary.

DAEP sites were located throughout the district, with one on the east side, one central, and one on the west side. The locations of the DAEP sites with the full time staffing allocations are:

Programs:

A. Middle School Programs

- Southwest Ed. Center
- Magee, MS Portable 24
- Doolen, MS One Classroom

- B. High School Program, DAEP
 - Southwest Ed. Center, DAEP
 - Project More, DAEP

Staffing Totals:

- A. Middle School Programs
 - Three Teacher FTE
 - Three Behavior Intervention Monitors
- B. High School Programs
 - Southwest, 1 Teacher and 1 BIM
 - Project More DAEP, 4 Teachers and 1 BIM
 - One Counselor
- C. Support Staff
 - Life Skills Teacher/Sub and Administrative Designee
 - Coordinator and Counselor Specialist
 - Transition Specialist, Ex. Ed. Certified

Results

Multiple variables were examined to assess the impact of DAEP on students who completed the program. This section is divided into demographics, attendance, academics and discipline.

A. Student groups Served

2015-16 was the first year of DAEP. A total of 250 students were referred to DAEP from grades 6 -12. Of those students, 157 enrolled into the program and 93 declined their enrollment. Middle School shows a slightly greater number of students who declined (N=52) when compared to high school (N=41). African American students were more likely to decline DAEP enrollment when compared to the other ethnicities across the District. Please refer to Table 1 for the breakdown by ethnicity of students who declined enrollment into DAEP.

Table 1. USP Ethnic Breakdown of Students who Declined Enrollment into DAEP compared to the USP District Ethnicity Average. 2015-16 (N=93)		
USP Ethnicity	Percent	District Average 40 th Day
White	19%	21%
African American	14%	9%
Hispanic	60%	61%
Native American	2%	4%
Asian-PI	2%	2%
Multi-Racial	2%	3%
Unknown	1%	0%

For the 98 students in grades 6 – 8 who chose to enroll in DAEP, they received services at Magee Middle School, Southwest Education Center, and Doolen Middle School. Additionally, Project More Alternative High School provided services to 59 high school students. Table 2 shows the distribution of students who enrolled in DAEP by site.

Table 2. Number and Percent of Students Enrolled in DAEP 2015-16 in TUSD		
DAEP Site	Students	
	N Size	Percent
Doolen	28	18%
Magee	35	22%
SW Alt MS	35	22%
Project More	59	38%
Total	157	100%

The ethnic breakdown of students enrolled in DAEP reveal that African American students and Native American students are somewhat over represented when compared to the District's overall ethnic distribution. Additionally, students enrolled in DAEP reveals a similar profile as the students who did not enroll in DAEP in terms of ethnic affiliation. In other words, the decision to participate or not in DAEP does not appear to be dependent upon ethnic or racial identification.

Table 3. Number of Students Enrolled in DAEP by USP Ethnicity			
USP Ethnicity	N Size	% (does not include Missing)	% District (40 th Day Count)
White	24	15%	21%
African American	21	14%	9%
Hispanic	92	59%	61%
Native American	10	7%	4%
Asian-PI	1	0%	2%
Multi-Racial	7	5%	3%
Total	156	100%	100%
<i>Missing</i>	<i>1</i>		

Students in Exceptional Education (N=50) and with 504 plans (N=9) were also overrepresented in program participation. In addition to the regular DAEP enrollment process, students with a disability under the Individuals with Disabilities Education Act (IDEA) could also be assigned to DAEP as part of an Interim Alternative Education Setting (IAES) in circumstances involving the use or possession of drugs, weapons, or serious bodily injury. These occurrences would follow the specific procedures outlined in the Exceptional Education Handbook for TUSD. ExEd students would be sent to DAEP as their alternative setting because a separate IAES program is not currently available. Across the District in 2015-16, ExEd students made up about 15% of the District's total population. In DAEP, however, students requiring specialized services such as the ExEd/504 students made up 36% of the total DAEP enrollment and ELL students added another 3%. Of these students, Hispanic and African American students made up the majority at 80%. Please refer to Table 4 to see the number and percent of these students by ethnicity. In terms of program participation, the ethnic distribution of the students who receive specialized services is representative of the overall student DAEP enrollment.

Table 4. Number and Percent of Exceptional Education Students, 504 Plan Students, and English Language Learner Students by USP Ethnicity			
USP Ethnicity	N Size	ExEd/504 Plans	ELL
White	9	15%	
African American	10	16%	
Hispanic	39	57%	7%
Native American	2	3%	
Asian-Pacific Islander	0	0	
Multi-Racial	1	2%	
Total	61	100%	

When examining the home school from which the referrals originated, the five top referring schools in rank order were: Utterback, Palo Verde, Valencia, Doolen, and Vail. Grades 6 – 8 from the middle schools and K-8 schools made up 60% of participants while 40% of participants came from the high schools.

Additionally, different violations can receive a different number of suspended days. To be eligible to participate in DAEP, a student must be suspended for 20 days or more. Schools with the longest average suspensions in rank order were: Fickett and Doolen followed by Magee, Palo Verde, Sahuaro and THMS. This data exposes that students in grades 6 – 8 were not only the most frequently referred, but they were also suspended the longest average period of time. Please see Table 5 for a breakdown of participation by school and the average number of days suspended. Table 6 shows a breakdown of DAEP participation by school and ethnicity.

Table 5. Number of students Referred to DAEP by Home School and Average Number of Days Suspended by School (ISI) = In School Intervention Program				
Type	Referring School	Students		Av. # of Days Suspended
		Count	Percent	
Middle School (N=83)	Utterback (ISI)	29	18%	31
	Valencia (ISI)	13	8%	30
	Doolen (ISI)	13	8%	41
	Vail (ISI)	11	7%	34
	Pistor (ISI)	7	4%	31
	Secrist (ISI)	4	3%	29
	Magee (ISI)	5	3%	38
	Mansfeld (ISI)	3	2%	23
	Gridley (ISI)	1	1%	21
K-8 School (N=10)	Safford (ISI)	3	2%	34
	Dietz	4	3%	34
	Fickett (ISI)	2	1%	45
	Maxwell	1	1%	30
	Hollinger	1	1%	29
High School (N=54)	Palo Verde (ISI)	15	10%	38
	Catalina (ISI)	9	6%	34
	Pueblo (ISI)	8	5%	31
	Cholla (ISI)	8	5%	33
	Rincon (ISI)	5	3%	32
	Sabino	6	4%	34
	Sahuaro (ISI)	4	3%	38
	THMS (ISI)	3	2%	38
UK (N=2)	Missing	2	1%	

Table 5 presents the distribution of referring schools and Table 6 shows the same information broken out by ethnicity. This information displays that individual schools generally referred a low but fairly consistent number of students from each ethnicity into DAEP with the exception of Utterback, Valencia, and Pistor that referred the largest group of Hispanic students and Palo Verde that referred the largest group of White students. However, even with these pockets, the referrals do not over represent any ethnic group.

Table 6. Number of students referred to DAEP by USP ethnicity and home school							
Referring School	USP Ethnicity						
	White	African American	Hispanic	Native American	Asian P/I	Multi-Racial	Total
Utterback (ISI)	1	1	22	4	0	1	29
Pueblo (ISI)	0	2	4	1	0	0	7
Cholla (ISI)	1	1	4	1	0	0	7
Catalina (ISI)	0	4	5	0	0	0	9
Palo Verde (ISI)	6	3	5	1	0	0	15
Doolen (ISI)	3	3	4	1	1	0	12
Vail (ISI)	2	1	5	0	0	2	10
Valencia (ISI)	2	0	11	0	0	0	13
Rincon (ISI)	1	0	3	0	0	1	5
Maxwell	0	0	1	0	0	0	1
Pistor (ISI)	1	0	6	0	0	0	7
Sabino	2	1	2	0	0	0	5
Sahuaro (ISI)	1	0	3	0	0	0	4
Safford (ISI)	0	0	1	2	0	0	3
Secrist (ISI)	0	1	3	0	0	0	4
Magee (ISI)	1	1	2	0	0	0	4
Dietz	1	1	1	0	0	0	3
Fickett (ISI)	0	0	2	0	0	0	2
Gridley (ISI)	0	1	0	0	0	0	1
THMS (ISI)	1	0	0	0	0	1	2
Mansfeld (ISI)	0	0	2	0	0	1	3
Hollinger	0	0	1	0	0	0	1
All Schools	23	20	87	10	1	5	147
Missing Data N=10							

B. Number of assignments

Of the 157 students who were assigned to DAEP, 89% successfully completed DAEP and 10% did not. Two students (or 1%) will continue their DAEP enrollment into the 2016-17 school year before returning to their home school. Additionally, 13 students or 8% were enrolled more than once to the program in 2015-16. Only 1 student from the 13 who were enrolled twice did not complete the program. Reasons for not completing the program were varied and complex. For example, some reasons included: parents withdrew student from program early, transportation issues, instability of housing (run away, group home, kicked out of parental home), drug use/rehab etc. Even with the added individualized support from DAEP, it appears that some students must contend with significant challenges both inside and outside of school and because of these challenges, they were not able to complete the program.

C. Recidivism rates in discipline

Students enrolled in DAEP had repeated discipline incidences throughout the school year. A total of 487 discipline incidents were committed by these students which included both in-school consequences and out-of-school suspensions. This data reveals that almost half (46%) of students got in trouble just once or twice at their home school, attended DAEP and completed the year without any further discipline incidents. About 29% of students continued to get into trouble 3 or 4 times during the year at their home school resulting in both in school and out of school suspensions. Finally, about a quarter of students repeatedly got into trouble 5 or more times and attended DAEP one or sometimes two times. When broken out by individual students enrolled in DAEP, the distribution of the total discipline (in school and out of school) is:

- 1 total discipline incident = 27%
- 2 total discipline incidents = 19%
- 3 total discipline incidents = 12%
- 4 total discipline incidents = 17%
- 5 or more total discipline incidents = 25%

Additionally, 57% of these students were suspended (both short term and long term suspension) more than once during 2015-16. A total of 283 total suspensions were assigned for these students. The vast majority of these suspensions were classified as short-term suspensions lasting for a couple of days. When broken out by individual students, the distribution of suspensions is:

- 1 suspension only = 43%
- 2 suspensions = 26%
- 3 suspensions = 18%
- 4 suspensions = 8%
- 5 or more suspensions = 5%

This data suggests that almost half of students who attended DAEP were infrequent offenders who got in trouble a couple of times during the school year and went on to attend DAEP. The other half of students had a longer discipline incident history which included both in-school and out-of-school consequences including DAEP.

D. Reasons for DAEP assignment

To be invited to participate in DAEP, a student needs to have committed an offense that resulted in a long term suspension of 20 days or more. Most frequently, these offenses are considered a level 4 or 5 violation according to the Guidelines for Student Rights and Responsibilities (GSRR). Please refer this link to view the entire handbook: <http://www.tusd1.org/contents/distinfo/deseg/index.asp>. In 2015-16, 6% of enrolled students had level 3 violations (disorderly conduct), 67% had level 4 violations, and 27% had level 5 violations. Table 7 shows the type and distribution of infractions that students were involved in. The data indicates that assault was the most common violation followed by drug use (marijuana) and other drug use. Because 2015-16 was the first year of DAEP, the data collection system to track and monitor students was basic and consisted on tracking students on an excel sheet. It is expected that in 2016-17 that the data collection processes will be more established so that the program can account for all data points.

Table 7. Number of students by infraction <i>*Infractions listed are not exhaustive but are the most common ones</i>		
Infraction*	Students	
	Count	Percent
Assault	50	32%
Disorderly Conduct	9	6%
Drugs	11	7%
Marijuana	43	27%
Sexual Misconduct	5	3%
Arson	5	3%
Theft	1	1%
Weapons	5	3%
Fire Alarm	2	1%
<i>Other or Missing</i>	26	17%

When the infractions were broken down by site, some patterns were revealed. For example, Utterback had the greatest problem with assaults, followed by Valencia and Vail. This data suggests that middle schools need additional PBIS and other positive discipline policies to mediate aggression. This finding aligns to the findings from the *2015-16 Learning supports Coordinator (LSC) Annual Report* where only a quarter of middle school teachers felt that positive discipline strategies were effective in reducing conflict at their schools. These results suggest that middle schools may need additional training in restoratives and a wider set of complementary strategies to encourage positive student behavior.

On the other hand, drugs and marijuana appear to be more evident at the high school level such as Palo Verde, Cholla, and Pueblo suggesting that student engagement in high interest in-school and after-school activities are needed to provide alternatives to using drugs. Additionally, students with behavioral or emotional issues may need access to outside services as an additional support to what is provided in school. Please see Table 8 for a breakdown of the number of students by infraction and school.

Table 8. Number of students by Infraction and Home School <i>ISI in Bold and Italicized</i> <i>*Infractions listed are not exhaustive but are the most common ones</i>										
Referring School	Infraction*									
	Assault	Disord /Cond	Drugs	Marijuana	Sexual	Arson	Theft	Weapons	Alarm	Totals
Utterback	14	2	1	3	3	0	0	0	0	23
Pueblo	0	0	1	5	0	0	0	0	0	6
Cholla	0	0	1	6	0	0	0	0	0	7
Catalina	3	1	2	0	0	0	0	2	0	8
Palo Verde	3	0	0	9	0	1	1	1	0	15
Doolen	2	1	0	3	0	2	0	0	0	8
Vail	7	0	0	1	0	0	0	0	0	8
Valencia	8	0	0	3	0	0	0	0	1	12
Rincon	2	0	1	1	0	0	0	1	0	5
Maxwell	0	0	1	0	0	0	0	0	0	1
Pistor	5	1	0	0	0	0	0	0	0	6
Sabino	0	1	2	0	1	0	0	1	0	5
Sahuaro	0	0	1	1	1	0	0	0	1	4
Safford	0	0	0	3	0	0	0	0	0	3
Secrist	2	1	0	1	0	0	0	0	0	4
Magee	0	1	0	2	0	1	0	0	0	4
Dietz	2	0	0	1	0	0	0	0	0	3
Fickett	0	0	0	2	0	0	0	0	0	2
Gridley	1	0	0	0	0	0	0	0	0	1
THMS	1	0	0	0	0	1	0	0	0	2
Mansfeld	0	0	1	2	0	0	0	0	0	3
Hollinger	0	1	0	0	0	0	0	0	0	1
All Schls	50	9	11	43	5	5	1	5	2	131

When the infractions were broken out by ethnicity, all subgroups were represented in assault and marijuana categories with the exception of Asian-PI students. This data shows that students across ethnicities were committing similar level 4 and level 5 violation infractions. Please see Table 9 for a view of the number of student by infraction and ethnicity.

Table 9. Number of students by Infraction and USP Ethnicity										
<i>*Infractions listed are not exhaustive</i>										
USP Ethnicity	Infraction*									
	Assault	Disord erly Cond	Drugs	Mariju ana	Sexual	Arson	Theft	Weapo ns	Alarm	Totals
White	6	1	1	10	1	0	0	2	0	21
	29%	5%	5%	48%	5%	0%	0%	10%	0%	
Afr. Am	8	1	2	3	1	1	1	0	0	17
	47%	6%	12%	18%	6%	6%	6%	0%	0%	
Hispanic	27	7	8	24	3	2	0	3	2	76
	36%	9%	11%	32%	4%	3%	0%	4%	3%	
Nat. Am.	5	0	0	5	0	0	0	0	0	10
	50%	0%	0%	50%	0%	0%	0%	0%	0%	
Asian-PI	0	0	0	0	0	1	0	0	0	1
	0%	0%	0%	0%	0%	100%	0%	0%	0%	
MultiR	4	0	0	1	0	1	0	0	0	6
	67%	0%	0%	17%	0%	17%	0%	0%	0%	
All	50	9	11	43	5	5	1	5	2	131

E. Attendance rates

Attendance rates are often used as a measure of student engagement in school. However, these rates provide generalized information. For example, in Table 10, the attendance rate in DAEP was higher than when the students attended their home school. This data suggests that students may have been more invested in DAEP than they were in their home school. Nonetheless, at both DAEP and their home schools, the average attendance rate was low. These students missed, on average, almost a quarter of school which is a significant barrier to academic success.

Table 10. Attendance rates for DAEP vs. Home School					
Attendance	Valid N	Mean	Minimum	Maximum	Std.Dev.
Home School	146	76.88	26.00	100.00	15.83
DAEP	146	78.15	8.00	100.00	22.48

Table 11 shows that the attendance rate across the different DAEP campuses were fairly consistent with all sites showing an average of 78.5% except for SW Alternative Middle School with was slightly lower at 76.91%. Regardless if the student attended middle school or high school, the average attendance overall was low. Although DAEP already required both students and parents to sign a contract agreeing to report absences and not to be tardy, students tended to accumulate consecutive absences more frequently at the end of their allotted time, according to DAEP personnel. Please refer to Appendix 4 to review a copy of the Middle School Contract.

Table 11. Attendance Rates by DAEP site		
DAEP Site	Attendance	
	Means	N
Magee	78.52%	31
Project MOre	78.40%	53
SW Alt MS	76.91%	34
Doolen	78.79%	28
All Sites	78.15%	146

F. Pre- and post-assessment results

Students enrolled in DAEP were graded in four core areas: Math, English Language Arts, Social Studies, Science. In addition, a 5th class elective was scheduled. DAEP reported student attendance and grades to their home school. Credit was issued only by the home school utilizing grades sent by DAEP teachers. At the high school level, credit recovery was also offered.

Upon enrolling into DAEP, students were given a grade level pre-test in English Language Arts (ELA) and Math. The same assessment was given as a posttest when they completed their time. These pre-post tests were intended to measure academic growth of students while enrolled in DAEP. Because of the the number of students who did not attend regularly during their final week of DAEP enrollment, the matched results represent only 62% of students in ELA and 57% of students in math.

In the fall 2015, the math pre-post test for grades 6 – 9 was made up of a TUSD math inventory assessment that covered grade level standards. For grades 10-12, DAEP teachers developed an in-house assessment that covered high school grade level math standards. The ELA pre-post for grades 6-8 was a combination

of the McDougal-Little grade level placement test and a reading fluency passage that tracked words read and errors made. The ELA pre-post test for grades 9 – 12 was a placement test from Touchstone Applied Science Associates. To streamline these different assessments, all the DAEP sites transitioned to the District's 4th quarter year-end on-line assessment in ELA and math as the pre-post assessment for all grades in the spring 2016.

Matched results from the various ELA assessments showed that students did not demonstrate change greater than 1 point more or less than their pre-test scores at Magee, Project More, Southwest Alternative Middle School. However, at the Doolen site, students exhibited a significant gain on the 27 item test with an average increase of 6 questions from pre to post test. Please see Table 12 for the mean pre and post test score for ELA by DAEP site.

Table 12. DAEP Pretest – Posttest results by site for ELA (matched students)						
DAEP Site	ELA Pre-test		ELA Post-test		ELA Gain	
	Means	N	Means	N	Means	N
Magee	73.16	19	74.00	19	.842	19
Project More	67.80	30	66.90	30	-.900	30
SW Alt M	75.86	28	76.07	28	.214	28
Doolen	54.24	21	60.48	21	6.238	21
All Sites	68.23	98	69.52	98	1.286	98

In math, the matched gains were more substantial than in ELA. All sites except Southwest Alternative Middle School showed significant gains on the 27 item test from pre to post test. At Magee, the students gained, on average about 7 points, at Doolen, the gain was, on average, about 6 points, and at Project More, the gain was very impressive with about a 9-point increase. This data is evidence that students who completed DAEP demonstrated tangible gains in math and some gains in ELA. The model of small structured academic environments appeared to have had a beneficial academic impact on DAEP students.

Table 13. DAEP Pretest – Posttest results by site for Math (matched students)						
DAEP Site	Math Pre-test		Math Post-test		Math Gain	
	Means	N	Means	N	Means	N
Magee	35.91	11	43.45	11	7.545	11
Project More	44.09	32	52.88	32	8.781	32
SW Alt M	36.56	25	36.12	25	-.440	25
Doolen	35.64	22	41.77	22	6.136	22
All Sites	38.93	90	44.36	90	5.422	90

G. Social and Emotional Learning (SEL)

Social and emotional learning (SEL) is the process through which children and adults acquire and apply the knowledge, attitudes, and skills necessary to understand and manage emotions, set and achieve positive goals, feel and show empathy for others, establish and maintain positive relationships, and make responsible decisions.

The SEL curriculum at DAEP provided a dedicated time during the school day when the SEL skills were taught. At the Middle School sites, the lessons were taught a minimum of 2 days per week; at the High School level they were taught daily. DAEP leadership selected a 40-item Locus of Control (N-SLOC) assessment for adults and youth. (Nowicki, S. & Strickland, B. (1973) "A locus of control scale for children", *Journal of Consulting and Clinical Psychological* 40(1), 148-154). Please refer to Appendix 5 to review the survey questions. Those students with a high internal locus of control exhibit better control of their behavior than those with a high external locus of control. Because of the scoring methodology, a gain in internal locus of control requires a reduction in the mean value from pre to posttest.

The results from this assessment were slight and showed only a gain or loss of about a point at all sites except for Magee which showed a reduced perception of control. Project More and Southwest Alternative Middle School were the only two program sites that displayed a small increase in an internal locus of control. One reason that this data shows inconclusive results may be that DAEP enrollment was not long enough in duration to alter a student's state of mind. Other reasons may be that they actually did not have much control over their lives at this juncture. Please see Table 14 for a summary by DAEP site of the pre-post test results.

Table 14. DAEP Pretest – Posttest results by site for SEL (matched students)						
DAEP Site	SEL Pre-test		SEL Post-test		SEL Gain	
	Means	N	Means	N	Means	N
Magee	59.78	18	63.50	18	3.722	18
Project	69.37	40	69.23	40	-.150	40
SW Alt M	64.54	26	65.62	26	1.077	26
Doolen	62.27	22	62.09	22	-.182	22
All Sites	65.08	106	65.89	106	.802	106

H. DAEP Student Survey Results 2015-16

When students completed DAEP, they were asked to fill out a survey about their experiences. A Total of 62 students filled out the survey in 2015-16. Please see Appendix 6 for a question by question breakdown of student responses. The results from this survey overall revealed that the best place for these students to be enrolled is in school with a structured and supportive environment.

The survey revealed that if students did not have the option to enroll in DAEP, the majority of them would just hang out at home or with friends (82%). The remaining students would leave the district altogether either to a charter school (16%) or simply drop out of school (2%). Students felt that they benefitted from the DAEP experience and that the life skills that they were exposed to would help them to avoid future suspensions. Additionally, 84% of students agreed that they found their experience in DAEP to be either satisfying or outstanding. The remaining 16% were more ambivalent about their experiences, with their responses ranging from somewhat unsatisfied to somewhat satisfied.

When asked about the program, students appreciated most the respect from the staff (84%), the small class sizes (83%), and the information about college and career options (80%). For some of these students, it may have been the first time in a while that an adult spent time with them to discuss their future in a positive framework. Additionally, because these students may have a reputation at their home school for being troublesome, the opportunity to develop a respectful relationship with an adult and feel a sense of belongingness was a powerful outcome of the program, and one that is challenging to measure with conventional evaluation tools.

Students were mixed about enrolling in a transition program before returning their home school. About half of students (54%) felt ready to go back to their home school and their old routines. The other half of students (46%) were open to the idea because they felt successful in DAEP with the smaller class sizes and responsive teachers. Finally, the majority of students (86%) felt that their experiences in DAEP would help them avoid further suspensions.

Discussion

Students enrolled into DAEP for 20, 30, or 45 days. About half of the enrolled students (N=77) were arrested because they committed Level 4 and 5 offenses and were subsequently placed on probation. Without DAEP, these students would be in violation of their probation and would need to serve time in a detention facility. DAEP, therefore, served as a safe haven for troubled students who otherwise would spend the time at home, in a detention facility, or out on the streets.

The student profile at DAEP revealed a population in need of full academic support and wrap-around behavioral services. Student needs were both varied and complex: some were deep-rooted from exposure to trauma or instability, some contended with mental or behavior health issues that have been neglected or underserved, some suffered from chemical dependency, some had language and/or cultural barriers, and some did not fit comfortably into the structure of mainstream schooling. Because of these issues, most DAEP students had substantial academic learning gaps. Of the 157 students who enrolled in DAEP, 89% successfully completed the program and the rest either terminated early (10%) or became continuing students (1%) into the 2016-17 school year. Student demographics from DAEP included:

- **Ethnicity:** The USP ethnic breakdown of students referred to DAEP (regardless if they chose to enroll or decline enrollment) revealed that African American students (14%) were somewhat over-represented when compared to the District's overall ethnic distribution (9%). The other ethnic groups were representational of the larger District average.
- **Attendance:** The average attendance rate in the program was about 78.15% which translated into program attendance ranging between 16 to 35 days. The program exposure was therefore relatively limited which challenged the program to be able to show sustained change in student behavior. For example, the Social and Emotional Learning Scale (SEL) provided inconclusive results from pre to post test. Altering student's perception of how much control they felt could be exerted over their environment may require more time and services than what DAEP could offer.
- **Grade Levels:**
 - Middle School: 62% of students came from middle schools where aggression (assault, disorderly conduct) was the most common violation. This data suggests that middle schools may need additional training in restoratives and a wider set of complementary strategies to encourage positive student behavior to mediate aggression, a finding that also emerged from the *2015-16 Learning Support Coordinator (LSC) Annual Report*.
 - High Schools: 42% of students came from high schools where drugs and marijuana were more evident suggesting that student engagement in high interest in-school and after-school activities are needed to provide alternatives to using drugs. Additionally, increased collaboration with outside behavioral service agencies and TUSD high schools may be desirable to provide strategies to students at-risk to decrease drug dependency.
- **Students with Specialized Needs:** More than a third of students (39%) were classified as ExEd, had a 504 plan, or were English Language Learners. Without enrollment into DAEP, these students would not have received the appropriate school-based services that they and their families rely upon.

Students enrolled in DAEP fell into 3 broad categories in terms of their discipline history: about half (47%) of students got in trouble just once or twice at their home school, attended DAEP and completed the year without any further discipline incidents; about 29% of students had a longer history of trouble, amounting to 3 or 4 incidents during the year at their home school which resulted in both in-school and out-of-school suspensions; and about a quarter (24%) of students repeatedly got into trouble 5 or more times and attended DAEP one or sometimes two times.

In summary, despite the challenges of unfilled certified teacher vacancies and the turnover of the Behavior Intervention Monitors, DAEP provided essential services to high-risk students who otherwise would languish at home or might even drop out of school altogether. Students were largely satisfied with their experience and felt that they received needed support in a respectful environment. Most students (84%) concurred that their experience in DAEP will also help them avoid further suspensions. Academically, the students who completed the program showed growth, especially in math. The smaller learning environments with more individualized attention appear to have improved their learning capabilities. Almost half of students (46%) requested an extension to DAEP ostensibly because they felt successful in

the smaller environment. The results of this evaluation revealed that DAEP was successful in supporting long-term suspended students both academically and behaviorally until they were able to return to their home school.

Recommendations

1. Staffing:

- a. **Certified Teachers:** Similar to other high profile programs in TUSD such as magnet programs or other 'hard to fill' positions in TUSD's at-risk schools, DAEP should receive hiring priorities and/or hiring incentives to recruit and retain teachers.
 - b. **Behavior Intervention Monitor (BIM):** Review and modify the job description of the BIM to align more closely with the Student Support Specialist position. Currently, a BIM is a Grade 6 position although they perform similar duties Student Success Specialists (Grade 13) in other TUSD departments.
2. **Alignment to TUSD's infrastructure:** Currently, DAEP must problem solve how to participate and comply with district initiatives and infrastructure designed for mainstream schools. Consideration of TUSD's Alternative Schools fluid student enrollment should be included into the planning of District initiatives including 301 monies, Teacher Evaluation, School City assessments, transportation, professional development, Teacher Surveys, text books, attendance criteria, AZMerit, Synergy, etc.
 3. **Professional Development:** PD for all staff in DAEP should reflect the needs of the student population. Differentiated professional development is recommended during the summer months to prepare DAEP staff for the upcoming school year.
 4. **DAEP data in Synergy:** Create a flag within Synergy to track students that have enrolled in the program and once for students who have completed DAEP with dates. This tracking system would support DAEP staff to be able to examine the number of incidents a student had prior to DAEP versus the number of incidents a student had after they completed DAEP.
 5. **Measurable outcomes of DAEP:** All stakeholders should agree on what specific criteria will be used to measure the impact of DEAP. The average attendance rate in the program was about 78.15% which translated into program attendance ranging between 16 to 35 days. Additionally, the Department of Justice will not currently allow DAEP to extend students' time in the program. Using longer term measures such as increased attendance rates, increased performance on the AzMERIT test, increased graduation rates, or decreased drop-out rates may not be appropriate to assess DAEP's impact.
 6. **Follow up support for students who complete DAEP:** Communication between DAEP and the home school should be institutionalized and documented. For example, in preparation for a returning student who has completed DAEP, middle and high schools need a plan in place with recommendations from the DAEP staff. This plan would help to reintegrate the student and provide continued academic and behavioral support.

Appendix 1

Program criteria are:

- A student is eligible for DAEP if they commit a level 4 or level 5 offense and found to be in violation.
 - The long-term hearing officer would assign the student into DAEP for a total of 20, 30 or 45 days depending on the severity of the offense.
 - A student who chooses to participate in DAEP would be required to attend an orientation with their parents, and sign a contract agreeing to the rules, adhere to a dress code and the attendance requirements of the program.
 - A total of 75 seats for grades 9-12 students in Project More DAEP
- A. A student who violates their contract by committing GSR infractions while enrolled at DAEP will be held accountable.
- If the violation is deemed minor, level one, two or three, there may be an extension of their assignment at DAEP. If there are repeated violations of level one, two or three, the principal at DAEP may petition to raise the violation to a level 4.
 - If the violation is a level 4 violation, a long term hearing may be held which may disqualify the student from DAEP and they would then serve the concurrent suspensions at home.
 - A student may only be assigned to DAEP no more than twice per school year.
- B. Students in DAEP for a level 4 violation who adhere to the rules, thrive, and demonstrate model student behaviors will be rewarded as follows:
- A student who exceeds behavioral and curriculum expectations may have their suspension reduced and returned to their home school. This determination would be made by DAEP principal and staff recommendation.
 - A model student shall have their Mojave record reflect they were excellent students.
- C. Students assigned to DAEP will have an opportunity to participate in a counseling program. Each student, with the aid of the counselor, will develop:
- A responsible behavior plan to facilitate success at school.
 - Decision-making, goal setting, behavioral skills, anger management, peer interaction compliance, authority figure coping
 - May provide some drug and alcohol education. The counselor, in conjunction with staff and parents, may help determine the need for any additional referrals.

Services Available are:

- A. Juvenile Court:
 - DAEP representative meets with Education Consultant Coordinator (court representative).
 - When appropriate Education Consultant Coordinator will schedule a meeting with judge.
- B. Support for child/teen trauma, homeless support, drug/ substance abuse or Medicaid:
 - DAEP Social Worker or counselor in collaboration with TUSD Student Services will make contact/recommend appropriate social service agency.
- C. Identify Mentor Networks:
 - DAEP Social Worker or Counselor works with Drop Out Prevention staff to identify and assign mentors.
- D. Transportation:
 - Bus passes will be available for students who qualify.
 - Ex Ed services will be provided as they would normally.

Appendix 2

Our mission is to provide a Fair, Equitable, and Successful Educational Experience to long-term suspended middle and high school students throughout the district.

DAEP Vision

Every student matters in TUSD. We have an obligation to reduce disparities wherever they exist in our District. Achieving equity in matters of student discipline is our District's moral calling. TUSD's culture and climate must be rooted in effective and positive relationships with each student. Students cannot learn if they are not in school. Providing students a continuing education is in line with our vision and values. We can and must work with every student to ensure a fair, equitable and successful educational experience.

DAEP Values/Collective Commitments:

Because we, educators and support staff, VALUE equitable access to education for all students, we make a COLLECTIVE COMMITMENT to:

1. Ensure that each student and parent/guardian feels valued in TUSD.
2. Encourage each student to recognize and achieve his/her potential.
3. Address the constraints to each student's home school success.
4. Uphold professional standards.
5. Be loyal to our purpose.
6. Provide consistent supervision of our students to ensure appropriate behavior in and out of the classroom.
7. Deliver a rigorous curriculum, build relationships with students, and give emotional and academic support.
8. Keep open lines of communication between student, parent, home school, and outside agencies.
9. Implement the Wrap Around Concept with follow-up on our part.
10. Apply PBIS and Restorative Practices toward redirection of student behavior and choices.

DAEP Goals

Our goals are below for each student who attends the DAEP Program. Because the students attending the Program are on an individual timeline, the steps toward each goal will be implemented throughout the course of each student's timeline.

- ❖ We ensure that each student and parent/guardian feels valued in TUSD.
 1. Daily implementation of Point Sheets as a communication tool, with a 100% return rate.
 2. Weekly parent/guardian contact regarding student success/concerns.
- ❖ We support each student in recognizing and achieving his/her potential.
 1. Administration of pre- and post-tests to help guide instruction.
 2. Communication with the home school to coordinate educational standards/materials.
 3. Daily tailored instruction with adherence to IEP's and support for diverse learners in the classroom.
 4. Weekly presentation of "Smart Moves 4 Life" or similar Life Skills Curriculum.
 5. As needed, providing access to support programs, such as counseling.
- ❖ We strive to address the constraints to each student's home school success.
 1. Emailed "heads-up" to home school teachers, LSC, Counselor, etc. 3 days prior to student's return.
 2. Completion/email of Academic and Behavioral MTSS plans to LSC within 1 day of student's return to home school.
 3. Emailed exit reports to home school teachers within 1 day of student's return to home school.
 4. Re-entry meeting at home school prior to student's return.
 5. Transition day in home school ISI program
 6. Follow-up with home school and student within 2 weeks of student's return.

Appendix 3

Addressing the Social Emotional Learning Needs of DAEP Students

Social and emotional learning (SEL) is the process through which children and adults acquire and effectively apply the knowledge, attitudes, and skills necessary to understand and manage emotions, set and achieve positive goals, feel and show empathy for others, establish and maintain positive relationships, and make responsible decisions. The SEL curriculum at the District Alternative Education Program (DAEP) sites utilizes a variety of sources, and is delivered using an explicit implementation model as well as incorporating, addressing and reinforcing the skills across the curriculum. The explicit model means that there is a dedicated time during the school day when the SEL skills are targeted and taught. At the Middle School sites the lessons are taught a minimum of 2 days per week; at the High School level they are taught daily.

The DAEP SEL curriculum blends lessons, ideas, and strategies from the following sources:

SMART MOVES 4 LIFE

Smart Moves 4 Life is a straight talk program designed to build self awareness, resiliency, compassion, empowerment and inner peace in adolescents. The lessons are designed to be motivating, relevant and life changing even to the most discouraged and challenging teens. Smart Moves 4 Life uses interactive presentations, motivational videos, and written exercises to help teens develop a deeper understanding of the inner world.

EVIDENCE BASED FEATURES/ CROSSWALK OF SMART MOVES 4 LIFE and CASEL CORE COMPETENCIES

1. Teaching character and core values helps lead to good decision making. (CASEL core competency 1, 5)
2. Learning to overcome fear and limiting beliefs enables students to tap into their capabilities. (CASEL core competency 1,2)
3. Discovering passion and purpose in life gives a clear sense of direction. (CASEL core competency 1,2,5)
4. Learning to hold ourselves accountable removes a victim's mentality.(CASEL core competency 2)
5. Providing encouragement, support and acknowledging positive behavior helps decrease aggression, vandalism, truancy and dropping out. (CASEL core competency 4)
6. Defining and teaching positive social expectations helps create a positive school climate. (CASEL core competency 3,4,5)
7. Connecting goals to practices increases the likelihood of long term personal growth. Smart Moves 4 Life takes students through a 30 Day personal growth program. (CASEL core competency 2)
8. Having healthy relationships is crucial to personal growth and happiness. (CASEL core competency 1,2,4)
9. The willingness to overcome obstacles will be a defining factor in one's success. (CASEL core competency 1,2)
10. One must become self aware before they can begin the journey to self improvement and personal growth. (CASEL core competency 1)

STUDENT SUCCESS SKILLS a Collaborative for Academic, Social Emotional Learning (CASEL) endorsed curriculum

Student Success Skills is a skills promotion program that uses teaching practices and free-standing SEL lessons to support social and emotional learning. It is designed to be implemented in a regular class where the teacher delivers five lessons that provide students with strategies for (1) setting goals, monitoring progress, and sharing success; (2) building a caring, supportive, and encouraging environment; (3) developing and practicing memory and cognitive skills; (4) calming anxiety and managing emotions; and (5) developing healthy optimism. The stress reduction techniques include mindfulness strategies such as muscle relaxation. The dosage is one lesson per week with three booster sessions, one for each of the following months. After completing the five lessons teachers are expected to cue and coach students to apply the appropriate skills and strategies during academic lessons throughout the year to master the curriculum and develop a healthy and supportive classroom climate.

DECISIONS FOR HEALTH district adopted health textbook published by Holt, ISBN# 0-03-067522-7

Key topics covered are: Understanding the primary aspects of health and wellness; Successful decision making/choices; Setting goals, and the key that long term goals are made up of short term goals; Learning about self-concept; How to express and manage a variety of emotions and stressors; Importance of healthy relationships and steps to mediate conflicts and avoid violence.

THE WHY TRY JOURNAL a tool designed to help make positive changes in one's life

Appendix 4



District Alternative Education Program (MS)

Welcome to the District Alternative Education Program! This program will provide you with an opportunity to continue your education and reflect on the behaviors and circumstances that brought you here. We will assist you in learning appropriate behaviors, and making better choices so that when you return to your home school you can be a successful student.

Our teachers have chosen to work with students who have had difficulty in traditional school programs and are excited to be helping improve student's academic and social success.

Students are graded in five core areas: Math, English Language Arts, Social Studies, Science, and Reading. In addition, we offer a grade in Health. We do not offer elective credits. DAEP will report each student's attendance and grades to their home school. Final grades will be issued only by the home school utilizing grades sent by DAEP teachers. At the high school level, credit recovery may be offered.

Some of our science and social studies classes may take place in the community, as this allows the students to experience real-life applications to the study of these subjects. An example of this is the study of Orienteering, Riparian habitats, and Ecosystems at Agua Caliente Park. Additionally, we may invite guest speakers to address students about a particular skill or hobby they possess, but also to speak about real experiences they have had with violence, crime, drugs, or difficulty in school.

Please be aware of the TUSD retention policy. According to Board Policy IKE-R1: your child must receive a final passing grade in LA, Math, either Science OR Social Studies, AND receive final passing grades in at least four subjects.

We ask that you:

- Come to school with a positive attitude.
- Be here every day, and on time.
- Complete all assigned work without argument.
- Wear appropriate clothing: no hats, gang or drug related apparel, sunglasses, etc.
- Be respectful at all times to, the teachers, guests and other students.
- Behave appropriately when out in the community with the class.
- Respect and be responsible for our electronic equipment.
- Refrain from using profanity or any type of disrespectful behavior.
- Follow TUSD and site rules and policies.

We will provide you with:

- An opportunity to continue your education in a positive environment.
- Curriculum that may be adapted to meet your particular educational needs.
- School Counseling services with an emphasis on goal setting, problem solving, anger management, and life skills.
- An awareness and appreciation of other cultures.
- Open and ongoing communication with your parents/guardians, PO's when applicable via daily behavior point sheets and weekly telephone calls. Parents/guardians may contact the teacher with any concerns they may have.
- Food services will provide breakfast (where scheduling allows) and lunch on a daily basis. Free and reduced lunch status will be honored. No outside food or drink is allowed. Arrangements may be made for students who bring sack lunches.

Teacher's name(s) and School Phone Number: _____

The best time to call: _____

School Hours: Monday, Tuesday, Thursday, Friday: _____ Wednesday: _____

TUSD

District Alternative Education Program

Student Name _____ Date of
Registration _____ Grade: _____

Address: _____ Date of Birth: _____
Home School _____

Home Phone: _____ Special Education? _____

Parent Permission

My son/daughter, _____, has my permission to participate in the following school activities and/or services:

- School sponsored trips to include TUSD vehicle and/or staff vehicles
- Talk with school counselor, Transition Specialist, and other support staff
- Attend scheduled academic classes and activities in the community
- Guest speaker events that may be of a mildly graphic nature (i.e. straight talk about drugs and violence)
- I hereby give permission for DAEP staff to contact my student's Probation Officer: _____ (parent initials)

Parent Signature _____

_____ Date

Student Contract

Student Contract For: _____

1. I agree that I must attend school daily and on time. My school hours are: Monday, Tuesday, Thursday, and Friday from _____ to _____, and Wednesday from _____ to _____. I understand that there is a tardy policy in place, which may require me to stay after school to make-up time/work missed. Parents will be notified by student or staff.
2. If for any reason, I will be absent or tardy, my parent or legal guardian will call the teacher by _____ a.m.
3. I understand that the DAEP follows all **TUSD's policies** in regard to appropriate behavior, language, attire, and destruction of school property. Violation of these policies may result in **removal from the program**.
4. The DAEP program does not allow **backpacks**. If a student brings a backpack to school, it will be confiscated, searched and returned at the end of the day. Repeat occurrences will result in discipline consequences.
5. **We strongly discourage students bringing any electronic devices to school.** We will **not be responsible for loss or theft** of these items, even if staff confiscates them or stores them. Girls are only allowed to bring a small, wallet-sized purse and it will be checked daily.
6. I will come to school with a positive attitude and make every effort to complete all assignments in a timely manner to the best of my ability.
7. I recognize that my parent/guardian and/or **probation officer** will be notified immediately if I fail to make progress; am excessively tardy and/or absent. They will also be notified when I am making good progress and following all the rules. Excessive tardiness may lead to removal from the program.
8. We have a **Random Search Policy**. Your child's/site may be randomly selected for this search. Students will be asked to empty their pockets; remove shoes, and be searched by the program administrator or designee. _____ Parent Initials

Student Signature _____ Date _____

Parent/Guardian Signature _____ Date _____

Appendix 5

Nowicki-Strickland Locus of Control: SCORING DOCUMENT

The Nowicki-Strickland is considered an excellent assessment of locus of control for adults and youth. Research has shown those with a high internal locus of control have better control of their behavior than those with a high external locus of control. To score the N-SLOC, add up the number of "correct" answers, which are highlighted in red below. **Higher scores reflect a more external locus of control.** Compare pre and post scores to measure improvement.

- | | | |
|-----|----|--|
| Yes | No | 1. Do you believe that most problems will solve themselves if you just don't fool with them? |
| Yes | No | 2. Do you believe that you can stop yourself from catching a cold? |
| Yes | No | 3. Are some kids just born lucky? |
| Yes | No | 4. Most of the time, do you feel that getting good grades means a great deal to you? |
| Yes | No | 5. Are you often blamed for things that just aren't your fault? |
| Yes | No | 6. Do you believe that if somebody studies hard enough, he or she can pass any subject? |
| Yes | No | 7. Do you feel that most of the time it doesn't pay to try hard because things never turn out right anyway? |
| Yes | No | 8. Do you feel that if things start out well in the morning, that it's going to be a good day no matter what you do? |
| Yes | No | 9. Do you feel that most of the time parents/caregivers listen to what their children have to say? |
| Yes | No | 10. Do you believe that wishing can make good things happen? |
| Yes | No | 11. When you get punished, does it usually seem it's for no good reason at all? |
| Yes | No | 12. Most of the time, do you find it hard to change a friend's (mind) opinion? |
| Yes | No | 13. Do you think that cheering more than luck helps a team to win? |
| Yes | No | 14. Do you feel that it's nearly impossible to change your parent's/caregiver's mind about anything? |

- | | | |
|-----|----|--|
| Yes | No | 15. Do you believe that your parents/caregivers should allow you to make most of your own decisions? |
| Yes | No | 16. Do you feel that when you do something wrong there's very little you can do to make it right? |
| Yes | No | 17. Do you believe that most kids are just born good at sports? |
| Yes | No | 18. Are most of the other kids your age stronger than you are? |
| Yes | No | 19. Do you feel that one of the best ways to handle most problems is just not to think about them? |
| Yes | No | 20. Do you feel that you have a lot of choice in deciding who your friends are? |
| Yes | No | 21. If you find a four leaf clover, do you believe that it might bring you good luck? |
| Yes | No | 22. Do you often feel that whether you do your homework has much to do with what kind of grades you get? |
| Yes | No | 23. Do you feel that when a kid your age decides to hit you, there's little you can do to stop him or her? |
| Yes | No | 24. Have you ever had a good luck charm? |
| Yes | No | 25. Do you believe that whether or not people like you depends on how you act? |
| Yes | No | 26. Will your parents/caregivers usually help you if you ask them to? |
| Yes | No | 27. Have you felt that when people were mean to you it was usually for no reason at all? |
| Yes | No | 28. Most of the time, do you feel that you can change what might happen tomorrow by what you do today? |
| Yes | No | 29. Do you believe that when bad things are going to happen they just are going to happen no matter what you try to do to stop them? |
| Yes | No | 30. Do you think that kids can get their own way if they just keep trying? |
| Yes | No | 31. Most of the time, do you find it useless to try to get your own way at home? |
| Yes | No | 32. Do you feel that when good things happen they happen because of hard work? |

- | | | |
|-----|----|--|
| Yes | No | 33. Do you feel that when somebody your age wants to be your enemy there's little you can do to change matters? |
| Yes | No | 34. Do you feel that it's easy to get friends to do what you want them to? |
| Yes | No | 35. Do you usually feel that you have little to say about what you get to eat at home? |
| Yes | No | 36. Do you feel that when someone doesn't like you there's little you can do about it? |
| Yes | No | 37. Do you usually feel that it's almost useless to try in school because most other children are just plain smarter than you are? |
| Yes | No | 38. Are you the kind of person who believes that planning ahead makes things turn out better? |
| Yes | No | 39. Most of the time, do you feel that you have little to say about what your family decides to do? |
| Yes | No | 40. Do you think it's better to be smart than to be lucky? |

Nowicki, S. & Strickland, B. (1973). "A locus of control scale for children", *Journal of Consulting and Clinical Psychology* **40(1)**, 148-154

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Appendix 6

District Alternative Education program

Student Survey Results (N=62)

1. If this suspension program was not available, where would you have spent the school days?

Alternative to DAEP	Count	Percent
Stay at home alone	25	44.643
Stay with family or friends	21	37.500
Enroll in a charter school	9	16.071
Dropout	1	1.786

2. Please indicate your experience in the DAEP site you are attending

Your Experience	Count	Percent
Unsatisfied	0	0.000
Somewhat Unsatisfied	1	1.613
Somewhat Satisfied	9	14.516
Satisfied	26	41.935
Outstanding	26	41.935

3. Please indicate the areas you liked about the program. You may choose more than one.

Things You Liked about DAEP	Count	Percent
Small class size	53	82.81
Tutorial opportunities	22	34.38
Respect from staff	54	84.38
Career and College information	51	79.69
Guest speakers	9	14.06
Other factors	1	1.56
Alignment of DAEP with home school	20	31.25
City bus passes	22	34.38


4. Would you find it valuable to enroll in a transition program before returning to the traditional school? The transition program would be for a fixed period of time and the setting would be similar to the DAEP Program.

Response	Count	Percent
Yes	28	45.902
No	33	54.098

5. Do you believe that being in the DAEP Program will help you avoid further suspensions?

Response	Count	Percent
Yes	51	86.441
No	8	13.559

EXHIBIT 5

 Tucson, Arizona POLICY REGULATION	REGULATION TITLE: Student Discipline – Short-Term Suspension
	CODE: JK – R1
	LEAD DEPARTMENT: Academic Leadership

Definitions

Most terms used in this document are defined in context. Since certain terms are not necessarily contextually defined, they are given immediately below.

“Abeyance Contract” is a contract between the parent, student and the school that sets forth the conditions under which the school agrees to not impose a suspension. If the student violates the agreement, the suspension will automatically be reinstated at that time without further process.

“Violation” is conduct which is prohibited at the District and which is identified as a violation in the “Guidelines for Student Rights and Responsibilities.”

"Parent" refers to a single parent, both parents, or to the person or persons with legal custody of the student.

"School Official" refers to any person granted the power to suspend students by the Governing Board.

“Short-Term Suspension” is the removal of a student from school and school activities for a period of time from a fraction of one (1) day through ten (10) school days' duration.

“Short-Term Pending Long-Term Suspension” is the initial removal of a student from school pending the formal due process proceedings required for long-term suspensions.

Alternatives to Suspension

Prior to any determination to suspend a student, the administrator shall first consider the use of appropriate alternatives to suspension, including, but not limited to: restorative conference, abeyance contract, or In-School Intervention.

Short-Term Suspension Procedures:

1. Required Rudimentary Due Process

- a. As soon as possible following an alleged violation, the student shall be given oral or written notice of the alleged misconduct.
- b. If the student denies the allegation, the school official shall explain the evidence of the misconduct to the student.
- c. The school official shall give the student the opportunity to present the student's own version of the situation.
- d. The three elements given above constitute the "rudimentary due process" required before any disciplinary action may be taken whether it results in in-class/school discipline or short-term suspension.
 - i. Such due process may be accomplished in a matter of minutes. Its purpose is to ensure that the facts of the situation are as clear as possible to the people concerned before any action is taken.
 - ii. The school official implementing the procedure is a fact finder. That school official must be satisfied that the student in fact did what the student was accused of doing.
 - iii. A student may be immediately removed from school without prior use of the due process procedures described above if the student's presence in school poses a continuing clear and present danger to persons or property or an ongoing threat of disrupting the academic process. However, due process shall be afforded as soon as possible and prior to the imposition of discipline. Only under emergency conditions, such as, when the student is not available for interview, may due process be provided following the application of discipline.

2. Decision

- a. Following the informal process described above and, if the facts warrant, the student may be suspended from school for a fraction of a day through ten school days.
- b. The effective date of the suspension is the first day the student is out of school for half of the day (or more).
- c. If the student must be released during the normal school day, an effort shall be made to contact the parent immediately. If the parent cannot be

contacted, the student shall be kept at school until the end of the normal school day.

3. Written Notification: The Suspension Notice (See JK-R1-E1)

- a. The suspension notice (JK-R1-E1), giving notice of the short-term suspension must be delivered to the student whenever possible. A copy must be mailed to the parent through first class mail no later than the first day of the suspension and the school shall retain a copy in the student's cumulative record folder.
- b. Meaningful Access: The notice shall be written in the home language. If the notice cannot be translated on the first day of suspension, the parent shall be informed in their home language by telephone or in person.
- c. Notification of the short-term suspension shall be sent to The Office of Student Equity within three days of the effective date of the suspension.

4. Parent Conference

If at all possible, a parent conference shall be held at the time of the imposition of a short-term suspension.

- a. The purpose of the parental conference is to reach a satisfactory and workable solution to the problem the student is experiencing.
 - b. As a result of this conference, the school official may opt to offer the student and parent the opportunity to have the suspension held in abeyance through the use of an abeyance contract. (See Policy Regulation JK-R4)
 - c. A short-term suspension may be shortened as a consequence of a parental conference, but under no circumstances may it exceed ten (10) school days. The short-term suspension imposed may not be lengthened as a means of getting the parent to come to the school.
 - d. If the student's home language is other than English, an interpreter may be required at this conference.
5. The student is allowed access to class assignments. Homework shall be made available for the parent to pick up at the school office. Additional assignments will be provided only after the student has completed and returned previous assignments.
6. Limitations upon the use of the short-term suspension

- a. Successive short-term suspensions shall not be applied to avoid or postpone the formal due process procedures of long-term suspension.
- b. If it is necessary to remove a student from school for more than ten days because of a particular violation, the procedure for the long-term suspension must be used. See Policy Regulation JK-R2
- c. There is no limitation on the application of successive short-term suspensions for successive, distinct incidents if the circumstances warrant. For example, if a student was suspended for three school days for punching another student, and on the day of his return did it again, a suspension of eight days could be imposed. As long as there is a second informal hearing before the second suspension, this total of eleven days (8 + 3) does not in itself violate the ten-day limit upon a single short-term suspension. The example illustrates an instance of two suspensions for two different violations and the suspensions occurred so close in time.

7. Appeal of a Short-Term Suspension

- a. A student or parent(s)/guardian(s) disagreeing with the decision to suspend may request a review of the school official's decision by the school official's immediate supervisor. Such request shall be made within three school days following the imposition of the suspension. The supervisor shall consider only the following grounds in reviewing the decision:
 - i. alleged denial of a right available to the student that resulted in an unfair hearing
 - ii. new evidence
 - iii. allegation of insufficient evidence
 - iv. allegation of excessive punishment
- b. The supervisory administrator may affirm the decision or reduce the discipline imposed. **The decision of the supervisor, upon review of the decision and the relevant facts available to him or her, is final.**

8. Student's Return to School Following a Short-Term Suspension

- a. On the day of the student's return to school, an administrator shall meet with the student and the student's parent for a re-entry conference.


- b. The purpose of this conference is to review the expectations for student conduct and to review the supports that will be provided by the school to assist the student in a successful return to school.

Reviewed by Board: July 11, 1989
Reviewed by Board: July 9, 1991
Reviewed by Board: June 9, 1992
Reviewed by Board: May 25, 1995
Reviewed by Board: March 24, 2009
Revised: June 18, 2009 [Added replaced policy only]
Revised: July 17, 2015 [Friday Report]

LEGAL REF.: A.R.S. § 15-341
A.R.S. §§15-840 – 15-844

CROSS REF.: JFCL – Anti-Harassment Policy – Student
JI – Rights and Responsibilities
JICA – Student Dress
JICFA – Hazing
JICG – Tobacco Use by Students
JICH – Drug and Alcohol Use by Students
JICI – Weapons in School
JICJ – Use of Cell Phones and Other Electronic Signaling Devices
JICL – Bully Prohibition and Prevention
JKA – Discipline of, and Alternative Interim Placements for Special Education Students
JKAA – Discipline, Suspension, Expulsion for 504 Handicapped Students

EXHIBIT 6

 Tucson, Arizona POLICY REGULATION	REGULATION TITLE: Long-Term Suspension
	CODE: JK – R2
	LEAD DEPARTMENT: Academic Leadership

Long-Term Suspension

A Long-Term Suspension is the temporary withdrawal of the privilege of attending a school by a student for a period of time not less than eleven and not more than one hundred eighty consecutive school days. *Long-Term Suspensions of more than thirty days shall not be imposed except for violations assigned to Level 5.*

Short-Term Suspension Pending a Long-Term Suspension

If a school official is considering a long-term suspension, the school official shall initially impose a “short-term pending long-term suspension” (See Governing Board Policy Regulation JK-R1 and Exhibit JK-R1-E2)

Alternatives to Suspension

Prior to any determination to suspend a student, the administrator shall first consider the use of appropriate alternatives to suspension, including, but not limited to: restorative conference, abeyance contract, In-School Intervention, or Alternative Education Placement.

Due Process Required for Long-Term Suspension

More formal process is required for suspensions longer than ten school days. The elements of due process listed below must be made available for all long-term suspensions. Once fully apprised that these procedural elements are available, the parent and student may avail themselves of all of them, or they may knowingly, intelligently, and voluntarily waive them in whole or in part. School officials, and particularly those involved in the matter at hand, may not give any legal advice whatsoever (even if specifically requested to do so) to the parent or student regarding the exercising of these rights.

The procedural due process rights available throughout the process to all students who may be subject to a long-term suspension are listed below. The student is entitled to:

1. The right to representation by the parent or legal counsel.
2. The right of the parent to be present at all proceedings involving their child
3. The right of the student, parent, or representative to reasonable access to non-privileged evidence and the student's records at least two days prior to the long term

suspension hearing. (This right may be exercised at any reasonable time during regular school hours after first making arrangements with the principal or designee)

4. The right to be free from any requirements to present evidence against himself or herself
5. The right to present favorable evidence and witnesses
6. The right to question adverse evidence and witnesses presented at the proceeding
7. The right to have the testimony presented preserved at the student's own expense
8. The right to have an interpreter present, if one is necessary

Written Notification

After an initial investigation, the school official may decide that a long-term suspension is appropriate. If so, the school official making that decision will then send written notice by first class mail or hand delivered to the student and/or to the parent. (See Exhibit JK-R2-E2) A copy of JK-R2 Long-Term Suspension shall be enclosed with the written notice of suspension. As with all documents pertinent to this process, a copy of this notice will be retained in the student's cumulative record file.

1. The notice must be sent no later than three school days following the imposition of a short-term suspension pending long-term suspension.
2. Meaningful Access: The notice must be written in the home language. If translation services are not available, the notice may be given orally through an interpreter. Documentation of the interpretation event must be maintained.
3. On or before the day the notice is delivered or mailed, the principal or designee shall make a reasonable effort to communicate verbally to the parent and the student the information contained in the written notice.
4. The formal Long-Term Suspension Hearing shall be held within ten school days of the date the short-term suspension became effective.
 - a. This is to keep the student out of school until it has been finally determined whether or not a long-term suspension will be imposed. A formal hearing is required before this determination can be made.
 - b. The formal Long-Term Suspension Hearing may be held later than ten school days only if the following rescheduling procedures are first followed:
 - i. The parent or student's representative submits a written or an oral request for a rescheduled hearing, which request demonstrates good cause. The

request must propose a new date and time and must be received at least two school days prior to the date of the hearing as originally scheduled.

- ii. If the circumstances require the hearing to be rescheduled beyond the ten days for short-term suspension, the student shall be readmitted pending the hearing on the long-term suspension. If a long-term suspension is imposed, the time spent on the applicable short-term suspension shall be included in calculating the 30 day maximum. Failure to appear without previously requesting a continuance and without prior notification shall not constitute good cause.

The Formal Long-Term Suspension Hearing

1. The hearing will be closed to the public.
2. The suspending administrator shall provide a long-term suspension hearing folder containing all documents related to the case to the school official assigned to hold the hearing, otherwise known as the hearing officer. (Exhibit JK-R2-E3)
3. The hearing officer must be an impartial fact finder. This means the hearing officer was not directly involved in the incident or its investigation and will not be a witness in the formal hearing. Additionally the suspending administrator should not discuss the case with the hearing officer prior to the hearing and should have no discussions with the hearing officer outside the hearing prior to the publication of the hearing officer's decision.
4. The student shall be afforded the due process rights as described above.
5. The hearing officer has the right to insist that all parties conduct themselves appropriately and to enforce this right in any reasonable manner.
6. The Long-Term Suspension Hearing Process
 - a. The hearing officer shall first announce the appearances of all persons present.
 - i. If, on the day and at the time scheduled for hearing, neither the student nor anyone on the student's behalf appears, the school officials shall attempt to contact the parent prior to the start of the hearing. If unsuccessful or if the parent refuses to attend the hearing, the school official shall review all applicable evidence with respect to the student.
 - ii. The fact that neither the student nor anyone on behalf of the student appeared must be recorded in the written findings and recommendations to be compiled following the review.

- iii. Due notification of the decision reached will be provided within the time which would have been required had the hearing been held with all parties present. The information contained in the decision notice is the same as that required in cases in which the parties were present at the hearing.

b. Attorneys at Hearings

- i. No school official shall give advice of any sort to anyone on the question of whether or not an attorney should represent the student. As with all other due process rights, no advice with respect to the exercise of this right shall be given by school officials, even if such advice is solicited by the student, parent, or both.
 - ii. The school official may always request that the parent or student give notice before the hearing if they intend to be represented by an attorney. But, even if such notice is not given and an attorney appears unannounced, the attorney shall not be excluded, nor should the presence of the District's legal counsel be required in order for the hearing to proceed.
 - iii. Either before or during the hearing, it may appear to the hearing officer that there is good cause to secure the presence of the District's lawyer. The hearing may then be adjourned and rescheduled by the school official if good cause develops during the hearing. It is incumbent upon the school official holding the hearing to ensure that the reason for adjournment is understood by those present.
- c. The hearing officer shall then ensure that the parent(s) and student have received notice of the hearing as provided in Board Policy Regulation JK-R2. Defects in notice may be waived by stipulation of both parties. Appearance by the parent(s) and student at the hearing without protest shall be deemed a waiver of any defect in notice.
- d. The hearing officer shall then read the violation(s) alleged to have been violated into the record. The hearing officer shall inquire as to whether the student and parent understand the alleged violations.
- e. The hearing officer shall inquire whether the parent and student received a copy of this Regulation JK-R2 and the Guidelines for Student Rights and Responsibilities with their notice. An affirmative response to this question is necessary before the formal hearing may proceed.
- f. The hearing officer is not required to enforce the rules of evidence. However, certain guidelines are appropriate.

- i. The scope of the formal hearing is to be strictly confined to the charges as they were specified in the written notice except that evidence of repeated violations may be admitted if relevant. However, the student may wish to present evidence of extenuating circumstances. In that case, it is within the discretion of the hearing officer to consider such evidence, if offered,.
- ii. When considering statements (oral or written) made by persons not present at the hearing, the hearing officer is obliged to consider the reliability of such statements before giving them any weight. An opportunity to rebut such statements shall be provided.
- iii. If the student raises the issue of self defense, defense of others or defense of property, the hearing officer shall consider the defense raised and whether the physical force threatened or used by the student was justified as being the action of a reasonable person of similar age and experience under the factual circumstances in evidence.

g. Presentation of School Case

- i. An appropriate school official (other than the hearing officer) shall be allowed to submit evidence, present witnesses, and testify against the student. The burden to prove the alleged violation of the Guidelines for Student Rights and Responsibilities rests at all times with school officials.
- ii. The student, or the student's representative, has the right to question all witnesses.

h. Presentation of Student's Case

- i. The student or the student's representative shall be allowed to submit evidence and present witnesses. At the discretion of the hearing officer, if witnesses are providing repetitious testimony, the hearing officer may limit the number of witnesses. The student may testify on the student's own behalf.
- ii. An appropriate school official shall be allowed to question the student and all witnesses, unless, of course, the student chooses not to testify, in which case the student is exempt from questioning.

i. Findings:

- i. Not later than two school days after the hearing, the hearing officer shall make written findings as to whether the student engaged in the conduct alleged in the notice of suspension, and determine within the limits defined in that notice what disciplinary action will be taken.

- ii. If the decision is to suspend the student for longer than ten days, within two days of the completion of hearing, the hearing officer shall notify the student and the parent of the findings and of the decision to suspend by hand-delivered or first class mail. (See Exhibit JK-R2-E1)
- iii. Copies of the letter of suspension shall also be delivered to the Department of Student Services within three days of the decision. The Department of Student Services will report the outcome of the hearing to the Governing Board.
- iv. *Long-Term Suspensions of more than 30 days shall not be imposed except for violations assigned to Level 5.* The Department of Student Services will review all suspensions of more than thirty days, and report to Elementary or Secondary School Leadership if the suspension is believed to be inappropriate. The long-term suspension will commence immediately while this review is being conducted. The Department of Elementary or Secondary Leadership may modify a long term suspension pursuant to the report from the Department of Student Services.. Nothing in this subsection shall eliminate the right of appeal from any determination to impose a long-term suspension.
- v. The hearing officer's findings must also include notice of the student and parents' right to appeal the Hearing Officer's findings.
- vi. If the hearing officer's decision is not to impose a long-term suspension, the student shall be readmitted to the school as soon as possible.
 - a. Verbal and written notification is made to the student and the parent as soon as possible.
 - b. The reasons for readmission are to be made a matter of record.
- j. Record of the Long-Term Suspension Hearing: All documentary evidence and record of the formal hearing are to be retained by the school as a part of the student's record. The Hearing Officer shall arrange to have a summary record made of the proceedings to include the names of those present, the witnesses, and a brief summary of the testimony of each. In addition, the school shall arrange to have the hearing recorded.

Long-Term Suspension Appeal

1. The hearing officer imposing the suspension must include in the letter of suspension the name, title, address, and phone number of the representative of the Department of Elementary or Secondary Leadership to whom an appeal may be directed.

2. The student may appeal a decision imposing a long-term suspension by filing a written appeal with the Department of Elementary or Secondary Leadership within three school days after the date notice of suspension was given, or within a time limit agreed upon by the student and the Department of Elementary or Secondary Leadership during the same three school days.
3. The basis for the appeal shall be specified in the written notice of appeal. The basis of appeal is limited to:
 - a. alleged denial of a right available to the student that resulted in an unfair hearing at the formal hearing
 - b. new evidence
 - c. allegation of insufficient evidence
 - d. allegation of excessive punishment

Note that appeals of recommendations for expulsion are not allowed.

4. If such appeal is filed, it shall be reviewed within five school days from the date the appeal is received by the person assigned to review the appeal.
5. Within ten school days of the receipt of the appeal, the Department of Elementary or Secondary Leadership must notify, in writing, the person filing the appeal of any decision.
 - a. If it is determined that an unfair hearing resulted from a denial of rights, a new long-term suspension hearing shall be ordered.
 - b. If it is determined that the new evidence presented would have substantially affected the results of the conference, a new long-term suspension hearing shall be ordered.
 - c. If it is determined that the evidence against the student was insufficient, the decision to suspend may be reversed and the student immediately reinstated in school (see "Long-Term Suspension"), or the length of the suspension may be reduced.
 - d. If the Department of Elementary or Secondary Leadership decides that the length of the suspension is excessive, the length of the suspension shall be reduced and notice of that decision shall be sent to the school administration and the parents.

- e. If the Department of Elementary or Secondary Leadership sustains the decision to suspend, notice to that effect must be sent to the student parent, and school administration.
- f. The student and parent may appeal the decision of the Department of Elementary or Secondary Leadership directly to the Governing Board.

Appeal to the Governing Board

1. If the suspension has been upheld or modified after the initial appeal, the student may further appeal by filing a written notice of appeal to the Governing Board within five days after receiving the decision of the Department of Elementary or Secondary Leadership.

If the decision to impose a long-term suspension includes a recommendation to expel, the Board shall hear the appeal of the long-term suspension at the time that the Board makes a determination whether to hold an expulsion hearing in accordance with Board Policy JK.

The basis of appeal is limited to the grounds considered at the first level of appeal. The Board shall review the written record and the record on appeal and shall hear no new evidence or testimony.

The Board shall render its decision within ten (10) days after reviewing the record and shall notify the student and parents in writing of its decision. If the Board hears the appeal at the same time as the Board makes a decision whether to hold an expulsion hearing, it shall send notice of its decision on the appeal at the same time that notice of the expulsion hearing is sent to the student and parent(s). The Board may confirm or reverse the decision to suspend or may reduce the discipline imposed.

The decision of the Board is final.

Homework

Homework shall be made available by the student's teachers through the end of the grading period. Teachers will only provide new assignment packets if previous packets have been completed and returned. However, because of the difficulty in students keeping up with the class work through homework alone, without the benefit of instruction, following the end of the grading period, students serving long-term suspensions will be supported through a TUSD alternative program such as distance learning.

Re-entry Conference

Upon completion of a long-term suspension and on the day the student returns to school, an administrator must meet with the student and the student's parent to discuss school expectations and the supports that will be in place to assist the student's return to school.

Reviewed by Board: July 11, 1989
Reviewed by Board: July 9, 1991
Reviewed by Board: June 9, 1992
Reviewed by Board: May 25, 1995
Reviewed by Board: March 24, 2009
May 13, 2009 [formatting & clarification statement only]
Reviewed by Board: June 19, 2009 [Friday Report]
Reviewed by Board: October 29, 2010 [Friday Report]
Revised: July 17, 2015 [Friday Report]

LEGAL REF.: A.R.S. §§ 15-341 & 15-342
A.R.S. §§15-840 – 15-844

CROSS REF.: JFCL – Anti-Harassment Policy – Student
JI – Rights and Responsibilities
JICA – Student Dress
JICFA – Hazing
JICG – Tobacco Use by Students
JICH – Drug and Alcohol Use by Students
JICI – Weapons in School
JICJ – Use of Cell Phones and Other Electronic Signaling Devices
JICL – Bully Prohibition and Prevention
JKA – Discipline of, and Alternative Interim Placements for Special
Education Students
JKAA – Discipline, Suspension, Expulsion for 504 Handicapped Students